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City and County of San Francisco



DAVID GRUBER
PRESIDENT

BROOKS BEARD
DAVE CROW
DEBORAH HENDERSON
JIM HURLEY
ANTHONY JUSTMAN
POLLY MARSHALL
CATHY MOSBRUCKER
NEVEO MOSSER
BARTHOLOMEW MURPHY

III. Approval of the Minutes

IV. Remarks from the Public

V. Consideration of Appeals

A. 1185 Pine St. #22

AT090063 & -64

The tenant appeals the decisions granting rent increases based on increased operating expenses and certifying capital improvement costs on the grounds of financial hardship.

B. 1755 Van Ness Ave. #606

AT090065

One tenant appeals the decision certifying capital improvement costs on the grounds of financial hardship.

C. 761 Commercial St.

AL080123

The landlord appeals the decision determining the proper base rent and refunding rent overpayments.

D. 60 Parkridge Dr.

AL080122

The landlord appeals the remand decision determining that water and garbage charges constitute unlawful increases in rent.

Residential Rent Stabilization
and Arbitration Board

NOTICE OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,

GAVIN NEWSOM
MAYOR

DELENE WOLF
EXECUTIVE DIRECTOR

Tuesday, 6:00 p.m.,
February 3, 2009
25 Van Ness Avenue, #70, Lower Level

AGENDA

** 01-29-09A11:38 RCLVD

Call to Order

Roll Call

GOVERNMENT
DOCUMENTS DEPT

JAN 29 2009

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NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.



E. 73 Uranus Terr.

AL080124

The landlord appeals the decision granting a claim of unlawful rent increase because it was found that the original tenant had not vacated the unit.

F. 3900 – 3rd St.

AL080125

The landlord appeals the decision granting rent reductions to the tenants in four units due to the lack of approved mail receptacles in this single room occupancy hotel.

G. 544 Church #101

AT080126

The subtenant appeals the decision finding that he did not pay more than his proportional share of the rent pursuant to Rules §6.15C(3).

H. 855 Sacramento #318

AT090001

One tenant appeals the decision granting the landlord's Petition for Extension of Time to do Capital Improvement Work.

VI. Communications

VII. Director's Report

VIII. Old Business

Petitions for Extension of Time to do Capital Improvement Work
(Rules and Regulations §12.15)

IV. Remarks from the Public (cont.)

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

IX. New Business

A. SRO Hotel Visitor Policy

B. Departmental Budget

X. Calendar Items

XI. Adjournment



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(5/04) snsh/Board/accmgt



DAVID GRUBER
PRESIDENT

**MINUTES OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,**

Tuesday, February 3, 2009 at 6:00 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

GAVIN NEWSOM
MAYOR

DELENE WOLE
EXECUTIVE DIRECTOR

BROOKS BEARD
DAVE CROW
DEBORAH HENDERSON
JIM HURLEY
ANTHONY JUSTMAN
POLLY MARSHALL
CATHY MOSBRUCKER
NEVEO MOSSER
BARTHOLOMEW MURPHY

Call to Order

Vice-President Marshall called the meeting to order at 6:05 p.m.

GOVERNMENT
DOCUMENTS DEPT

FEB 13 2009

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II. Roll Call

Commissioners Present: Beard; Crow; Henderson; Hurley; Marshall;
Mosbrucker; Mosser.

Commissioners not Present: Gruber; Justman.

Staff Present: Lee; Wolf.

Commissioner Murphy appeared on the record at 6:15 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of December 16, 2008 with the following corrections: on page 4, Phil Page is not the President of the Golden Gateway Tenants' Association; and on page 5, Clay Tominaga's comments should read: "He also informed the Board that rolling the base year forward in 2009, rather than to 2009 . . .". (Mosbrucker/Mosser: 5-0)

IV. Remarks from the Public

A. Clarence Mason, a tenant in a SRO hotel, said that there are no mailboxes in the hotel, and his mail gets sent back. Mr. Mason wanted to know how he could make the hotel operators provide mailboxes, since they have said that they will not follow the policy.

B. Jeff Buckley, Director of the Central City SRO Collaborative, said that he was present to support the 3rd Street tenants in their appeal (AL080125). He told the Board that the Collaborative is working with the Post Office to address their new policy of refusing to provide individual mail delivery in SRO hotels unless



they had already been doing so for more than 90 days. Mr. Buckley said that the mailbox ordinance passed in April 2006, and hotel owners were given a year to come into compliance. It is now 3 years later, and we are dealing with the same issues. Mr. Buckley feels private hotel owners should be held accountable for what should have been remedied.

C. SRO tenant Mary Hernandez told the Board that her mail goes to the hotel receptionist, which causes delays. She does not believe that she should be treated differently than the tenants who live in the apartment building next door.

D. SRO tenant John Mallory said that his GA check used to be held up because he didn't have a mailbox, and he had to institute direct deposit. The situation is the same now that he's on SSI.

E. Tenant Bob Bower now lives in an apartment building with mailboxes, but he used to live in a SRO and mail was very hard to get.

F. Paul Hogarth of the Tenderloin Housing Committee said that some hotel operators did comply with the law and the postal service will continue to deliver mail to those who've been receiving it for more than 90 days. Mr. Hogarth told the Board that tenants' representatives are working with the postal service and putting pressure on them. However, in the meantime, tenants need a remedy at the Rent Board and scofflaws shouldn't be let off the hook.

G. Daniel Pledger told the Board that this is a privacy issue, since clerks can rifle through tenants' mail. Mr. Pledger said that compensation isn't the issue, rather, privacy and security are. He asked that the Board address a citizen's right to have their mail delivered.

H. Otto Dowdy spoke on behalf of the Tom Waddell Center. Mr. Dowdy told the Board that SRO hotels are "sub-normal housing" and that residents' health and economic outcomes are lower than the population as a whole. Mr. Dowdy now lives at the Ritz Hotel, where he gets full mail service. Mr. Dowdy believes that mailboxes are just one step in improving the quality of residents' lives.

I. Jose de la Cruz, an Organizer with the Central City SRO Collaborative, reiterated that landlords should not be let off the hook if they haven't complied.

J. Alexandra Goldman of the Central City SRO Collaborative asked that the Board not set a "dangerous precedent" that landlords don't have to comply with the law.

K. Peter Maziak of the Central City SRO Collaborative informed the Board of an "unintended consequence" of this new policy: SRO tenants who do not have individual mail delivery do not qualify for digital converter box coupons, because the SRO is considered a business, and businesses do not qualify for the coupons. Mr. Maziak postulated that tenants should be able to use rent reductions granted for decreased housing services to buy a converter box.

V. Consideration of Appeals

A. 1185 Pine St. #22

AT090063 & -64

The tenant's appeal of a decision granting rent increases based on increased operating expenses was filed almost two months late because the tenant was out of the country at the time the decision was issued.

MSC: To find good cause for the late filing of the appeal.
(Murphy/Mosbrucker: 5-0)

The landlord's petitions for rent increases based on increased operating expenses and certification of capital improvement costs were granted. One tenant appeals the decisions on the grounds of financial hardship.

MSC: To accept the appeals and remand the cases for a hearing on the tenant's claims of financial hardship.
(Murphy/Mosbrucker: 5-0)

B. 1755 Van Ness Ave. #606

AT090065

The landlord's petition for certification of capital improvement costs to 20 of 50 units was granted. One tenant appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Murphy/Mosbrucker: 5-0)

C. 761 Commercial St.

AL080123

(rescheduled from 1/13/08)

The tenant's petition seeking a determination of her lawful base rent was granted and the landlord was found liable to the tenant in the amount of \$2,976.64 due to rent overpayments. On appeal, the landlord claims that his rents are less expensive than any other rentals in Chinatown and the decision is unfair.

MSC: To deny the appeal. (Mosbrucker/Marshall: 5-0)

D. 60 Parkridge Dr.

AL080122

(rescheduled from 1/13/08)

The tenant filed a petition requesting a determination of his lawful base rent. The Administrative Law Judge (ALJ) denied the petition because he found that the landlord's accounting of water and garbage service costs did not constitute a demand for payment and was therefore not a rent increase. The tenant's appeal was accepted and remanded for a determination as to the legality of the water and garbage charges. In the remand decision, the ALJ finds that landlord-provided water and garbage are housing services represented to the tenant as free of charge at the inception of the tenancy and any attempt by the landlord to collect for such services constitutes an unlawful rent increase. The landlord appeals the remand decision, asserting that: there was no agreement that the landlord was going to pay for water and garbage; the lease provides that these charges are the tenant's responsibility; the tenant's testimony was not truthful; determination of the validity of the terms of the lease is a State law issue over which the Rent Board has no jurisdiction; the landlord has not waived the lease provision but has withheld payment of interest on the tenant's security deposit as on-going collection of the charges; and parole evidence should not be allowed to contravene the express language of the written contract.

MSC: To recuse Commissioner Crow from consideration of this appeal.
(Murphy/Mosbrucker: 5-0)

MSC: To accept the appeal and remand the case to the Administrative Law Judge on the issue of whether the oral agreement legally can amend the terms of the written agreement, paying special attention to the Statute of Frauds; a hearing will be held only if necessary. (Beard/Murphy: 5-0)

E. 73 Uranus Terr.

AL080124

(postponed from 1/13/08)

The tenant's petition alleging an unlawful increase in rent from \$1,726.97 to \$4,300.00 per month was granted because the Administrative Law Judge found that the original tenant had not vacated the unit and therefore no increase pursuant to Rules §6.14 was warranted. On appeal, the landlord maintains that: the increase is authorized by Costa-Hawkins because the original tenant no longer permanently resides at the subject unit; there are factual errors in the decision; loan documents signed by the original tenant require that his principal place of residence be in North Carolina; and the petitioner's testimony at the hearing was not credible.

MSC: To deny the appeal. (Mosbrucker/Marshall: 5-0)

F. 3900 – 3rd St.

AL080125

The tenants in four units in this SRO hotel filed petitions alleging decreased housing services due to the lack of approved mail receptacles. The petitions were granted and the landlord was found liable to the tenants in the amount of \$50.00 per month. On appeal, the landlord claims not to have received notice of the hearing, and attaches the requisite Declaration of Non-Receipt of Notice of Hearing. The landlord also claims that the rent reductions granted are excessive; he has made improvements to the property; and the amounts granted constitute a financial hardship.

MSC: To accept the appeal and remand the case for a new hearing on the issues of the lack of approved mail receptacles, whether this service has been restored, and the landlord's alleged hardship. (Murphy/Mosser: 4-1; Mosbrucker dissenting)

G. 544 Church St. #101

AT080126

The subtenant's petition alleging that he paid more than his proportional share of the rent to the Master Tenant was denied. The subtenant appeals, claiming that: the value of the amenities he is provided were over-valued by the Administrative Law Judge; the unit is not kept clean by the Master Tenant; cable TV is not being provided; the unit is infested with vermin; and he would use his own dishes and pots and pans but there is no room to store them.

MSC: To deny the appeal. (Murphy/Mosbrucker: 5-0)

H. 855 Sacramento #318

AT090001

The landlord's Petition for Extension of Time to do Capital Improvement Work was granted. One tenant appeals the decision, arguing that: the Administrative Law Judge (ALJ) failed to consider whether the landlord is proceeding without ulterior motive and with honest intent; the ALJ allowed the landlord to remove the site on which his unit is located, rather than just temporary removal of the unit itself; and the tenant was precluded from challenging whether it is necessary for him to vacate the unit during the construction work.

MSC: To recuse Commissioner Marshall from consideration of this appeal. (Mosbrucker/Murphy: 5-0)

MSC: To deny the appeal. (Mosbrucker/Murphy: 5-0)

VI. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

A. A chart showing how the new security deposit interest rate of 3.1% was calculated.

B. A chart showing that the Rent Board's web site is heavily trafficked, in comparison with other City departments.

C. Several articles from various publications, including BeyondChron, the S.F. Chronicle, the S.F. Daily Journal, the New York Times, the S.F. Business Times and the Wall Street Journal.

D. A Memorandum from the Office of the City Attorney regarding the rights of San Francisco tenants during the foreclosure crisis.

E. Pleadings in the Larson lawsuit regarding Proposition M.

F. A current list of Rent Ordinance amendments.

G. Form 700 Statements of Economic Interest.

H. The departmental budget proposal for Fiscal Year 2009-2010.

I. A Memorandum from the Executive Director regarding proposed amendments to the SRO Hotel Visitor Policy.

VII. Director's Report

Executive Director Wolf informed the Board as follows:

A. Post cards are being sent out notifying landlords who have previously filed utility passthrough petitions of the amended regulations and procedures and informing them of how they can obtain the new forms.

B. The Form 700 Statements of Economic Interest and Sunshine Declarations are due April 1st.

C. The landlord's Writ in the case of Strain v. Rent Board was denied, as Judge Mahoney found that the ALJ gave proper weight to the evidence in this 1.21 case, even though the tenant had a Homeowner's Exemption on another property.

D. Several plaintiffs, including the S.F. Apartment Association, have filed a lawsuit challenging the validity of Proposition M, the tenant harassment amendment to the Rent Ordinance recently passed by the voters. The case is Larson et al. v. City and County of San Francisco (Superior Court Case No. 509083). On January 21, 2009 the Court granted a temporary stay of some provisions of Prop. M, and set a hearing on the plaintiffs' challenges to the entire Proposition for April 17, 2009. In the interim, the Rent Board will accept petitions with Prop. M claims for filing, but will not schedule such petitions for hearing until the court ruling on April 17th.

VIII. Old Business

Petitions for Extension of Time to do Capital Improvement Work

The Board continued their discussion of issues that have come up in conjunction with the Petition for Extension of Time process (Rules §12.15). Currently, in order for the landlord's petition to be granted, the regulations require that the landlord have all necessary permits prior to filing the petition. The Board's ALJs often deny the petitions for lack of all of the necessary permits, even when the landlord's estimate of time is reasonable and the landlord is acting in good faith. Senior Administrative Law Judge Tim Lee outlined the following issues from prior discussions: the Board could give the ALJs more discretion to grant such petitions, as long as no notice to vacate has been issued; tenants could be paid the rent differential any time they are displaced for more than 90 days, whether or not the petition is granted; and a standard or timeline should be established for tenants moving back in to the unit, which could be modeled after Rules §12.19. The Commissioners asked Mr. Lee to draft language incorporating these three suggestions for discussion at the March 3rd meeting.

IV. Remarks from the Public (cont.)

L. Winship Hillier asked whether it was normal for the Executive Director to be acting as President of the Board, and was informed that Ms. Wolf is actually the Board Secretary.

IX. New Business

A. SRO Hotel Visitor Policy

Ms. Wolf went over suggested changes to the Visitor Policy recommended by a Committee of landlord and tenant representatives that include: to allow any valid California or out-of-state current government agency issued picture I.D. to fulfill the requirement that visitors produce identification upon request; to expressly state in the Policy that no visitor fees can be charged; to enumerate the penalties

for violation of the Visitor Policy contained in the Police Code; and to make clear that if a requested overnight visit does not take place, the request shall not count against the tenant's allowed 8 overnight visits per month. Commissioner Beard suggested that tenants should be required to notify management in writing if a requested overnight does not occur.

MSC: To put the proposed amendments to the SRO Hotel Visitor Policy out for Public Hearing, with the additional suggestion offered by Commissioner Beard. (Mosbrucker/Murphy: 5-0)

The Public Hearing will be held on February 17, 2009.

B. Departmental Budget

The Executive Director went over the Department's proposed budget, explaining that the \$187,317 increase is attributable to mandated salary increases and retirement contributions. Depending on the amount of carryover funds that will be available, it is anticipated that next year's rental unit fee will be \$29 or \$30 per unit.

MSC: To approve the proposed departmental budget for Fiscal Year 2009-2010. (Murphy/Mosbrucker: 5-0)

X. Calendar Items

February 10, 2009 – NO MEETING

February 17, 2009

6 appeal considerations

7:00 Public Hearing: SRO Hotel Visitor Policy

New Business: Proposed Amendments to Rules §1.19

XI. Adjournment

Vice-President Marshall adjourned the meeting at 8:07 p.m.

NOTE: If any materials related to an item on this agenda have been distributed to the Commission after distribution of the agenda packet, those materials are available for public inspection at the office of the Rent Board during normal office hours.



February 5, 2009

FEB - 9 2009

NOTICE OF PUBLIC HEARINGSAN FRANCISCO
PUBLIC LIBRARY

DATE: February 17, 2009
TIME: 7:00 P.M.
PLACE: 25 VAN NESS AVENUE (AT MARKET ST.)
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SAN FRANCISCO, CALIFORNIA

6F
R52
2/17/09
public
hearing
c-2

THE RENT BOARD COMMISSIONERS INVITE THE PUBLIC TO COMMENT ON IMPLEMENTATION OF THE UNIFORM VISITOR POLICY PURSUANT TO SECTION 41D.6 OF THE ADMINISTRATIVE CODE. A COMMITTEE WAS CONVENED ON DECEMBER 11, 2008 TO ADDRESS POTENTIAL IMPLEMENTATION ISSUES. THE MAJOR SUGGESTIONS OF THAT COMMITTEE WERE: TO ALLOW ANY VALID CALIFORNIA OR OUT-OF-STATE CURRENT GOVERNMENT AGENCY ISSUED PICTURE I.D. TO FULFILL THE REQUIREMENT THAT VISITORS PRODUCE IDENTIFICATION UPON REQUEST; TO EXPRESSLY STATE IN THE POLICY THAT NO VISITOR FEES CAN BE CHARGED; TO ENUMERATE THE PENALTIES FOR VIOLATION OF THE VISITOR POLICY CONTAINED IN THE POLICE CODE; AND TO MAKE CLEAR THAT IF A REQUESTED OVERNIGHT VISIT DOES NOT TAKE PLACE, THE REQUEST SHALL NOT COUNT AGAINST THE TENANT'S ALLOWED 8 OVERNIGHT VISITS PER MONTH.

INTERESTED PARTIES ARE INVITED TO COMMENT ON THE CURRENT POLICY, LAST AMENDED OCTOBER 10, 2007, THE PROPOSED AMENDMENTS, AND/OR TO PROPOSE ANY AMENDMENTS TO THE POLICY THAT WOULD HELP EFFECTUATE THE GOALS AND REQUIREMENTS OF THIS CHAPTER. SPEAKERS WILL HAVE THREE (3) MINUTES EACH TO COMMENT ON THE POLICY. WRITTEN COMMENTS MAY ALSO BE SUBMITTED AT THE TIME OF OR PRIOR TO THE PUBLIC HEARING.

COPIES OF THE PROPOSED POLICY CAN BE OBTAINED AT THE RENT BOARD OFFICE, 25 VAN NESS, SUITE 320, OR ON THE RENT BOARD WEB SITE (www.sfgov.org/rentboard) UNDER "NEWS AND ARCHIVES" OR "AGENDAS."

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Residential Rent Stabilization
and Arbitration Board



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GAVIN NEWSOM
MAYOR

DAVID GRUBER
PRESIDENT

Tuesday, 6:00 p.m.,
February 17, 2009

DELENE WOLE
EXECUTIVE DIRECTOR

25 Van Ness Avenue, #70, Lower Level

AGENDA

BROOKS BEARD
DAVE CROW
DEBORAH HENDERSON
JIM HURLEY
ANTHONY JUSTMAN
POLLY MARSHALL
CAITLY MOSBRUCKER
NEVEO MOSSER
BARTHOLOMEW MURPHY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals

GOVERNMENT
DOCUMENTS DEPT

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A. 6600 – 3rd St. AL090069

The landlord appeals the decision granting a claim of decreased housing services.

B. 555, 595, 655 & 695 John Muir Dr. AT090002 thru - 62

Sixty tenants jointly appeal the decision approving utility passthroughs.

C. 250 – 11th St. #250 AT090066

The tenants appeal the decision determining that they did not have standing to bring the petition seeking a determination of the lawful base rent.

D. 936 Diamond St. AL090067

The landlord appeals the decision partially granting claims of decreased housing services and unlawful rent increase.



E. 4 Gerke Alley

AT080127

The tenant appeals the decision determining that the subject unit is not her principal place of residence pursuant to Rules §1.21.

F. 1821 McAllister

AT090068

The tenant appeals the decision finding that a rent increase was warranted under Costa-Hawkins.

VI. Public Hearing

7:00 Proposed Amendments to SRO Hotel Visitor Policy

VII. Communications

VIII. Director's Report

IX. Old Business

IV. Remarks from the Public (cont.)

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

X. New Business

Proposed Amendment to Rules Section 1.19 Regarding Utility Passthroughs

XI. Calendar Items

XII. Adjournment

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STABILIZATION & ARBITRATION BOARD,**

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MAYOR

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EXECUTIVE DIRECTOR

DAVID GRUBER
PRESIDENT

Tuesday, February 17, 2009 at 6:00 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

BROOKS BEARD
DAVE CROW
DEBORAH HENDERSON
JIM HURLEY
ANTHONY JUSTMAN
POLLY MARSHALL
CATHY MOSBRUCKER
NEVEO MOSSER
BARTHOLOMEW MURPHY

Call to Order

Commissioner Henderson called the meeting to order at 6:05 p.m.

II. Roll Call

Commissioners Present: Beard; Crow; Henderson; Hurley;
Mosbrucker.

Commissioners not Present: Gruber; Justman; Marshall; Mosser.
Staff Present: Lee; Wolf.

Commissioner Murphy appeared on the record at 6:16 p.m.

III. Approval of the Minutes

GOVERNMENT
DOCUMENTS DEPT

MSC: To approve the Minutes of February 3, 2009.
(Mosbrucker/Hurley: 4-0)

MAR 13 2009

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IV. Remarks from the Public

A. Tenant Claire Mc Queeney of 4 Gerke Alley (AT080127) thanked the Commissioners for considering her lengthy appeal and asked if the Board had any questions for her. She asked that they consider the recent passage of Proposition M, which she hopes sends a message to landlords.

B. Ross Wilkinson spoke on behalf of the Lakewood tenants (AT090002 thru -62). Mr. Wilkinson told the Board that the most important issues in their joint appeal are: 1) that the legislative history of the Ordinance suggests that common area utilities were not to be passed on to tenants; and 2) that pre-existing agreements between landlords and tenants can't be overturned by Rules §6.16. Mr. Wilkinson said that the landlord gave a false statement regarding utilities not being on the same meter; the landlord should be held to the



requirements on the Rent Board petition; and that the decision violates the Equal Protection Doctrine.

C. Attorney Steve Williams spoke on behalf of the landlord in the case at 4 Gerke Alley. Mr. Williams told the Board that the tenant had been successful in defeating the landlord's previous 1.21 petition but the landlord subsequently employed a private investigator, interviewed witnesses and utilized a security camera to prove that the tenant principally resides in Santa Barbara.

D. The tenant in the case at 936 Diamond St. (AL090067) told the Board that she was present.

E. Richard Payton, the tenant in the case at 6600 – 3rd St. (AL090069), told the Board that he never signed the papers that the landlord submitted.

F. Attorney Ray Shahani, representing the landlord in the case at 250 – 11th St. (AT090066), told the Board that he has no problem with the decision except that he contests the finding that the tenants were not timely served with a 6.14 notice.

V. Consideration of Appeals

A. 6600 – 3rd St.

AL090069

The tenants' petition alleging decreased housing services was granted, in part, and the landlord was found liable to the tenants in the amount of \$777.50 due to habitability violations on the premises. On appeal, the landlord asserts that the tenant repeatedly signed a statement attesting to the satisfactory condition of the unit.

MSC: To deny the appeal. (Mosbrucker/Henderson: 4-0)

B. 555, 595, 655 & 695 John Muir Dr.

AT090002 thru -62

The landlord's petition for approval of utility passthroughs for 216 of 715 units in this residential complex was granted. Sixty tenants jointly appeal the decision on the grounds that: the landlord's amended petition was untimely filed and should not have been considered; the Statute of Limitations should apply; the decision was rendered late; the Board of Supervisors did not intend for common area utilities to be an eligible expense but are the landlord's obligation; utility costs are covered by the annual allowable rent increase; the Rent Board has exceeded its rule-making authority; the landlord failed to meet their burden of proof; Rules Section 6.16 violates the tenants' leases; the base year precedes some of the

tenancies; the landlord's room count is incorrect; and there are factual errors in the decision.

MSC: To deny the appeal. (Hurley/Murphy: 5-0)

C. 250 – 11th St. #250

AT090066

The tenants filed a petition seeking a determination as to the lawful base rent, which was denied because the Administrative Law Judge found that the tenants did not have standing to bring the petition. The tenants appeal, claiming that: the petitioners meet the definition of tenant in the Ordinance, because they have lived in the unit since they were infants, with the knowledge and consent of previous landlords; their parents did not terminate their tenancy when they vacated the property, and have continued to pay rent because the landlord would only accept it from them; the 6.14 notice was not timely served on the tenants; prior Board decisions affirm the tenants' position that they are tenants as well as original occupants of the premises; there are factual errors in the decision; and the landlord is harassing the tenants and using the decision to bolster spurious court claims in another jurisdiction.

MSC: To deny the appeal without prejudice to any additional parties filing new petitions. (Hurley/Murphy: 3-2; Mosbrucker, Henderson dissenting)

D. 936 Diamond St.

AL090067

The tenants' petition alleging an unlawful increase in rent and decreased housing services was granted, in part, and the landlords were found liable to the tenants in the amount of \$20.80 for rent overpayments and \$2,025.00 due to habitability violations on the premises. The landlords appeal, claiming that: sufficient heat was provided to the living room during the period March 15, 2008 through November 15, 2008; the tenants did not cooperate with the landlords' attempt to determine if there were heating problems elsewhere in the unit; the landlords' repairs of the wiring and kitchen window were completed within reasonable periods of time; and the rent overpayment has already been refunded by the landlords.

MSC: To deny the appeal. (Mosbrucker/Henderson: 5-0)

E. 4 Gerke Alley

AT080127

The landlord's petition seeking a determination pursuant to Rules §1.21 was granted as it was found that the subject unit was not the tenant's principal place of residence at the time the petition was filed. On appeal, the tenant asserts that:

there are factual errors in the decision; she suffers from Post Traumatic Stress Disorder and was therefore unable to competently represent herself at the hearing; her absences from the unit were temporary and reasonable and were triggered by her dog's prolonged illness; she was advised to remain at her Santa Barbara unit by a doctor and a grief counselor; the landlord failed to meet his burden of proof; her brother in Santa Barbara needs her help; her San Francisco unit needs many repairs; and the San Francisco unit is the home to which she has returned for many years.

MSC: To recuse Commissioner Crow from consideration of this appeal.
(Mosbrucker/Murphy: 5-0)

MSC: To deny the appeal. (Hurley/Murphy: 4-1; Mosbrucker
dissenting)

F. 1821 McAllister

AT090068

The tenant's petition alleging an unlawful increase in rent from \$3,000 to \$4,000 was denied because the ALJ found that the tenant was a subtenant rather than a co-tenant at the time of the increase, and it was therefore authorized by Costa-Hawkins. On appeal, the tenant argues that: he had an oral rental contract in the amount of \$3,400 per month which was not rescinded; the tenant was listed on a 3-Day Notice to Pay Rent, which makes him a co-tenant; the landlord's failure to deposit the tenant's rental payment until after service of the notice of rent increase should not negate the establishment of a new tenancy; and the landlord had him fill out a rental application months prior.

MSC: To recuse Commissioner Crow from consideration of this appeal.
(Mosbrucker/Murphy: 5-0)

MSC: To deny the appeal. (Murphy/Mosbrucker: 5-0)

VI. Public Hearing

SRO Hotel Visitor Policy

The Commissioners convened a Public Hearing on proposed amendments to the SRO Hotel Visitor Policy at 7:10 p.m. A Committee of landlord and tenant representatives recommended the following changes to the Policy: to allow any valid California or out-of-state current government agency issued I.D. to fulfill the requirement that visitors produce identification upon request; to expressly state in the Policy that no visitor fees can be charged; to enumerate the penalties for violation of the Visitor Policy contained in the Police Code; and to make clear that if a requested overnight visit does not take place, the request shall not count

against the tenant's allowed 8 overnight visits per month, as long as the tenant notifies management in writing. Twenty-four individuals spoke to the proposals and other issues regarding the Policy as follows below:

1. Gilbert Tse, is a disabled vet and a member of Axis of Love. Mr. Tse said that there has been no manager at his hotel for the last three years, which has led to tremendous mis-management. Mr. Tse alleged that there are "atrocities" occurring in the hotels, along with "criminal negligence."

2. Captain Gary Jimenez of the Tenderloin Police Station said that there are "serious problems" with the Visitor Policy because tenants don't know their rights, and managers "don't have a clue." Captain Jimenez said that the policy isn't being visibly posted, and that managers should have to sign off that they've read the Policy.

3. Greg Ledbetter of the Anti-Displacement Caucus of the Harvey Milk Democratic Club said that 14 overnights should be allowed, instead of 8; that the curfews are "intolerable"; and that money is being charged for visitors.

4. Kimberly Alvarenga, Aide to Assemblyman Tom Ammiano, suggested that San Francisco's Municipal I.D. be specifically included on the list of acceptable I.D.s. Ms. Alvarenga said that the Municipal I.D. card includes medical and other helpful information.

5. Jonathan Rodgers of the Mission SRO Collaborative said that there are different rules for regular rooms and "treatment" rooms and that patients' rights should be clearly defined.

6. Allen White told the Board that Larry Brinkin of the Human Rights Commission would have a written statement for the Board within the next day or two. Mr. White said that SRO tenants have the same rights as any other American, and shouldn't be treated any differently. Mr. White told the Commissioners that they wouldn't put up with having to produce identification that could be copied. He also asked if the Rent Board is the right agency to be dealing with this. Mr. White concluded by saying that people live in SROs out of economic necessity, and they shouldn't be discriminated against.

7. Shomari Clarke said that "improvements need to be made," although his experience in SROs has been "great," because he can fend for himself. Mr. Clarke believes that there needs to be a minimum standard of care, consistent unit pricing and professional management.

8. Reverend Randi Webster is a patient advocate and Axis of Love member. Ms. Webster said that human beings need companionship, which

shouldn't be limited, and that she has had patients who have died due to a lack of visitors. Ms. Webster told the Commissioners not to assume that everyone is a rapist, murderer or criminal, and to re-examine the issue in a humane way.

9. Oscar Islas of Axis of Love said that he has been in a SRO for 3 years, after having been run over by a car. Mr. Islas complained that his girlfriend has only been able to stay with him 9 times a month, which he believes constitutes his "freedom being stripped." Mr. Islas told the Board that some hotels don't accept the Veterans' I.D. card.

10. Jeff Buckley, Director of the Central City SRO Collaborative, told the Board that his organization works with 70-100 hotels. He said that spelling out the Administrative Code Section that prohibits charging for visitors is a great addition to the Policy. He suggested the addition of jail I.D.s and asked that the Board consider eliminating the 3 "blackout" dates, as these are no longer necessary.

11. Chris Moyer of Axis of Love told the Board that her hotel room is so small, she can't comfortably have visitors. Ms. Moyer believes that the Visitor Policy should be posted on every door.

12. Silas Patino of Axis of Love said that he has lived in a SRO for 5 years, where the rent goes up every year but all he gets is "harassment." Mr. Patino has not received a rent receipt for over a year and he believes that there is substance abuse among staff members. Mr. Patino's hotel is not subject to the Rent Ordinance.

13. Kathleen Valdez of Axis of Love said that hotel operators shouldn't take under-the-table visitor fees. Ms. Valdez is on Section 8, and couldn't pay her rent by herself.

14. Kathleen Kalozsy of Axis of Love said that she sees injustice all around her – it is "your rights versus their prosperity." Ms. Kalozsy went on to say that "divided we fall" and "we live to be free," and then read a poem.

15. David Sarmiento of the medical cannabis community and Axis of Love said that he experienced bedbugs in his SRO but it took 5 years before his mattress was replaced. There is no 24-hour security, because the manager sleeps at the front desk. Mr. Sarmiento told the Board that he was homeless, but now feels less safe.

16. Albert Blats of Axis of Love said that no one living in a SRO has money but they're not children and they "need friendship."

17. Denise Dorey of Axis of Love has lived in SROs on and off since the 1970s. Ms. Dorey told the Board that her cousin almost died while waiting for an ambulance because the desk clerk at his hotel wouldn't let her in. Ms. Dorey said that SRO tenants are "at the mercy of strangers" and advocated for a minimum standard of care.

18. Shona Guchener, Executive Director of Axis of Love, decried the "criminalization of poverty." Ms. Guchener said that isolation has killed many patients that they serve and questioned the constitutionality of not being able to care for one's loved ones. She asked that the Board recommend a minimum standard of care to the Board of Supervisors and Planning Commission. She also suggested that they ask the City Attorney to review the constitutionality of the Visitor Policy.

19. Jonathan Dyer of Axis of Love doesn't live in a SRO. Mr. Dyer was concerned about people who get off work after visiting hours are over and, therefore, never get to have guests. Mr. Dyer suggested that if the tenant can prove that this is the case, they should be granted an exemption from regular visiting hours.

20. Sam Patel, President of the Independent Hotel Owners and Operators Association (IHOOA), said that his association is in agreement with the proposed changes, but asked that Section B(4) be clarified to specify that, if an overnight does not occur, management must be informed that evening. Mr. Patel thanked the Rent Board for translating the Policy into 7 languages.

21. Henry Karnilowicz, Secretary of IHOOA, told the Board that he has been on the last 3 Committees that have made recommendations regarding the Policy. Mr. Karnilowicz reminded the Board that SRO hotels were originally built for traveling salesmen, and were not designed for residential use. He said that many residents are afraid to speak up regarding drug dealers and other problems. Mr. Karnilowicz believes that the Policy is "excellent," and expressed his hope for the Board's support of the proposed changes.

22. Roger Patel said that he has been a hotel operator for 17 years. Mr. Patel feels that the Policy has been working quite well, although he had trepidation when it first passed. He said that he meets with many tenants who like things the way they are, and don't want to be disturbed.

23. Property Manager Bruce Burge said that the proposed modifications are "great," but that some critics of the policy don't have the whole picture and need corroboration.

24. Dipak Patel said that he is from the second generation of hotel operators. Mr. Patel believes that most of the issues surrounding the Policy are social and that SROs are put in this position by the government, because they provide affordable housing. Mr. Patel told the Board that hotel owners also make sacrifices due to the cost of utilities, the Sprinkler Ordinance, etc. Ultimately, Mr. Patel feels that the Policy represents a compromise, and that there should be no more changes.

The Public Hearing concluded at 8:00 p.m. The Commissioners briefly discussed the public comment and voted as follows below:

MSC: To adopt the proposed amendments to the SRO Hotel Visitor Policy with the following additional changes: to include the San Francisco Municipal I.D. card in the list of acceptable I.D.s in Section 2(A)(1) and to specify that management must be informed in writing by 6:00 p.m. the following day that no overnight took place in Section 1(B)(4).
(Hurley/Mosbrucker: 5-0)

The adopted Visitor Policy is as follows:

UNIFORM HOTEL VISITOR POLICY
As amended February 17, 2009

1. No operator, employee or agent of a Residential Hotel, as defined in San Francisco Administrative Code Section 41.4(p), may impose or collect a charge for any person to visit a guest or occupant of the hotel. Additionally, no owner or operator of a single room occupancy hotel (SRO) shall deny a guest or occupant of the hotel the right as to:

- A. Day Time Visitors
 1. To receive visitors between 9:00 a.m. and 9:00 p.m. daily. A maximum of two (2) day time visitors at a time per room may be imposed by management. There is no limit on the total number of visitors a tenant may have per day, week or month.
 2. Children 13 years old and under shall not be counted towards the visitor limitation rule. However, a maximum of two (2) children per room at a time can be imposed by management.
- B. Overnight Guests
 1. To have eight (8) overnight guests per month, limited to one visitor per tenant per night. Only tenants who have resided in their unit for thirty-two (32) continuous days or more shall be entitled to have overnight guests. Court-ordered custodial rights, which end at age seventeen (17), shall be honored for purposes of consecutive overnight stays but any such visits shall be counted toward the limitation on the number of overnight guests.
 2. For tenancies of two (2) persons per room, each tenant is permitted to have eight (8) overnight visitors per calendar month, but those tenants will

have to reach agreement as to who will have the one (1) visitor per night if there is a dispute.

3. Tenants are entitled to have a visitor stay eight (8) days consecutively in a calendar month. Any visitor staying consecutive nights, as agreed upon, shall not be required to check in and out during the course of a consecutive stay. Otherwise, the visitor must check out by 11:00 a.m. or make arrangements with the desk to become a daytime visitor.
 4. Requests for overnight guests shall be made no later than 9:00 p.m. on the same day. If a request is made but no visitor stays past 9:00 that evening, the request shall not be counted against the tenant's allowed eight (8) overnight guests per month, as long as the tenant has informed management in writing by 6:00 p.m. the following day that no overnight visit took place. The visitor does not have to be present at the time the request is made and the visitor's name need not be provided until the visitor arrives at the hotel, after which time the visitor shall have the same in and out privileges as the resident.
- C. Caregivers of disabled tenants shall be exempt from visitor limitations. The owner or operator of the hotel may request medical verification or a caregiver I.D. card.
2. Owners and operators of SROs shall have the right to adopt reasonable rules and regulations to ensure that the visitor rights set forth above do not infringe on the health and safety of the building and/or otherwise interfere with the tenants' right of quiet enjoyment.
- A. Owners or operators are entitled to request that visitors produce identification as follows:
1. Only ONE valid California or out-of-state current government agency issued picture I.D. need be provided, including but not limited to: a valid and current passport, a California Department of Motor Vehicles (DMV) issued I.D., a Mexican Consular Registration Card or Resident Alien Card, merchant seaman I.D., a Day Labor Program I.D., Veteran's Administration I.D or San Francisco City I.D. card.
 2. Owners/managers cannot require that an I.D. be left with management during the visitor's stay. If an I.D. is not left with management, tenants must escort their visitors out of the building and make sure that they sign out. If a tenant's visitor does not sign out upon leaving, the tenant may lose their visitor privileges for thirty days, which must be put in writing within seven days.
 3. A log must be maintained by management and the visitor must sign in and sign out. The log shall indicate when an I.D. is surrendered and when it is returned.
 4. If an I.D. is lost or misplaced and not returned within 12 hours of the visitor's request to have it returned, the owner/manager shall pay the visitor \$75.00 in cash immediately upon demand by the visitor as compensation for the loss and inconvenience of replacing the lost I.D.
- B. Owners and operators shall have the specific right to restrict visitors on two (2) of the three (3) actual check days of each month. Providers are required to post those blackout dates at least five (5) days prior to the first blackout date on a minimum size of 8-1/2" x 11", to be posted prominently by the entrance or in the lobby. Blackout dates shall not apply to children thirteen (13) years of age and under, custodial children or consecutive visitors.

- C. Owners and operators may deny visitor rights for 30 days to tenants who are repeat violators of hotel visiting rules. No penalty may be imposed until the second violation, and violations shall expire after 18 months. All notices of violation of the policy, including the first notice, must be in writing with a copy provided to the tenant. These limitations on the right to revoke visitor rights do not apply in the case of failing to ensure that a guest signs out upon leaving the building, as specified in Section 2A(2) above.
 - D. Tenants who disagree with the imposition of a penalty may either:
 - 1. appeal to the operator or tenant representative (if one is present); or, in the alternative,
 - 2. the tenant may go directly to the Rent Board for adjudication of their complaint.
 - E. Owners and operators shall also have the right to limit the number of nights any single visitor can make to the property to eight (8) per calendar month.
 - F. Tenants shall not be required to escort their visitors to the bathroom or other common areas of the building, except as specified in Section 2A(2) above. However, the tenant is responsible for the conduct of their unaccompanied visitor.
3. Nothing in this section shall interfere with the rights of owners and operators of SROs to exclude specific visitors who willfully or wantonly:
- A. disturb the peaceful enjoyment of the premises by other tenants and neighbors;
 - B. destroy, deface, damage, impair, or remove any part of the structure or dwelling unit, or the facilities or equipment used in common; or,
 - C. have committed repeated violations of the visitor policy which can be construed as creating a nuisance on the property; or constituting substantial interference with the comfort, safety or enjoyment of the landlord or tenants, which can be a just cause for eviction under the Rent Ordinance, as determined by the courts.
 - D. Any time a tenant's visitor is excluded from the hotel, written notice must be delivered to the tenant after the fact with the visitor's name and the reason for the exclusion.
4. SRO owners or operators shall make available to their tenants a copy of any written Supplemental Visitor Policy that complies with this policy. SRO owners or operators are required to prominently post the Uniform Visitor Policy and any Supplemental Visitor Policy on a minimum size of 11" x 17" by the entrance or in the lobby.
5. Other than as a settlement of an unlawful detainer action, a tenant cannot waive the rights as outlined in this legislation. Any agreement between the SRO owner or operator and the tenant that reduces or limits the rights set forth in this legislation shall be deemed void and unenforceable.
6. Tenants are accorded certain and specific rights as a result of this legislation. If the SRO owner or operator violates this provision, a tenant will have legal recourse and will be encouraged to visit the San Francisco Rent Stabilization Board or the Police, as appropriate. Pursuant to Police Code Section 919.1(b), in addition to any available civil penalties, any operator, employee or agent of a Residential Hotel who violates any of the provisions of this Uniform Hotel visitor Policy shall be guilty of an infraction, the penalty for which shall be a fine of not less than \$50 nor more than \$500, consistent with the California Government Code.

7. SRO owners or operators seeking a modification of the rights set forth above may file a petition with the San Francisco Rent Stabilization Board and receive a hearing on said petition. Notice of the time and date of said hearing shall be prominently posted by the SRO owner or operator above the front desk of the hotel, in the lobby and at least five (5) copies shall be posted on each floor of the building.

8. The Rent Board shall translate the Uniform Visitor Policy into the predominant languages of the community and make them available as needed.

VII. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

A. A copy of the post card being sent to landlords who have previously filed petitions for approval of utility passthroughs regarding the recent changes in those procedures.

B. Articles from CNN, BeyondChron, and Bloomberg News.

VIII. Director's Report

Executive Director Wolf reminded the Commissioners that their Form 700 Statements of Economic Interest are due to the Ethics Commission by April 1st.

IX. New Business

Proposed Amendment to Rules Section 1.19 Regarding Utility Passthroughs

Senior Administrative Law Judge Sandy Gartzman brought to the Board's attention the fact that several properties in San Francisco have begun to purchase natural gas from a non-PG&E provider. Section 1.19 of the Rules provides: "For the purpose of Ordinance Section 37.2(q) and Sections 4.11 and 6.16 of these Rules, 'Tenant's Utilities' means charges for natural gas or electricity provided by Pacific Gas and Electric Company directly to the unit occupied by the tenant or to the building in which the unit is located and benefiting the tenant, whether paid by the tenant alone, by the landlord alone, or part by the tenant and part by the landlord." It was suggested by Ms. Gartzman that the Board might wish to amend the regulation by deleting the reference to PG&E.

MSC: To adopt the proposed amendment to Rules and Regulations
Section 1.19. (Hurley/Murphy: 5-0)

Rules § 1.19 now reads as follows:

Section 1.19 Tenant's Utilities

For the purpose of Ordinance Section 37.2(q) and Sections 4.11 and 6.16 of these Rules, "Tenant's Utilities" means charges for natural gas or electricity provided directly to the unit occupied by the tenant or to the building in which the unit is located and benefiting the tenant, whether paid by the tenant alone, by the landlord alone, or part by the tenant and part by the landlord.

IV. Remarks from the Public (cont.)

G. Allen White said that all owners and tenants should have access to the Visitor Policy, but it takes the Rent Board several months to get it translated and posted. Mr. White asked if the Board had legal counsel present at the meeting and whether the Commissioners knew if what they had passed violates the Constitution. Mr. White said that the Board should have put the matter over in order to get a statement from Larry Brinker of the Human Rights Commission.

H. Shona Guchener told the Commissioners that it behooved them to advocate for these rights and told them they should collaborate with the community.

I. Jeff Buckley requested clarification on when the new Policy will be available.

J. Shomari Clarke expressed his opinion that overnights shouldn't be limited at all, and said that people are "being treated like babies."

K. Reverend Randi White asked about tenants' right to file a petition at the Rent Board if the Visitor Policy is not posted in their hotel.

X. Calendar Items

February 24th, March 3rd & 10th, 2009 – NO MEETINGS

March 17, 2009

11 appeal considerations

Old Business: Petitions for Extension of Time

XI. Adjournment

Commissioner Henderson adjourned the meeting at 8:25 p.m.

NOTE: If any materials related to an item on this agenda have been distributed to the Commission after distribution of the agenda packet, those materials are available for public inspection at the office of the Rent Board during normal office hours.

City and County of San Francisco



DAVID GRUBER
PRESIDENT

BROOKS BEARD
DAVE CROW
DEBORAH HENDERSON
JIM HURLEY
ANTHONY JUSTMAN
POLLY MARSHALL
CATHY MOSBRUCKER
NEVEO MOSSE
BARTHOLOMEW MURPHY

Residential Rent Stabilization
and Arbitration Board

NOTICE OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,

GAVIN NEWSOM
MAYOR

DELENE WOLF
EXECUTIVE DIRECTOR

Tuesday, 6:00 p.m.,
March 17, 2009

25 Van Ness Avenue, #70, Lower Level

AGENDA

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

A. 17 Grijalva Dr.

AT090071

One tenant appeals the decision granting utility passthroughs on the grounds of financial hardship.

B. 729 Jones #509

AT090073

One tenant appeals the decision granting utility passthroughs on the grounds of financial hardship

C. 359 Arballo #11J

AT090076

One tenant appeals the decision granting utility passthroughs on the grounds of financial hardship

D. 201 Divisadero

AT090082

One tenant appeals the decision granting utility passthroughs on the grounds of financial hardship



E. 3718 – 24th St.

AT080077 & -78

The tenant appeals the decision granting utility passthroughs on substantive grounds as well as a claim of financial hardship.

F. 355 Serrano Dr. 12A & 12C

AT090079 & -80

The tenants in two units appeal the decision granting utility passthroughs in this multi-unit complex.

G. 2600 – 47th Ave.

AL090072

The landlord appeals the decision granting a claim of decreased housing services.

H. 1018 Cortland #7

AT090070

The tenant appeals the decision partially granting decreased services claims but denying claims of failure to repair and unlawful rent increase.

I. 1437 – 23rd Ave.

AL090075

The landlord appeals the decision granting claims of decreased housing services.

J. 1327 Bay St. #A

AT090074

The tenant appeals the decision finding that the subject unit is not her principal place of residence pursuant to Rules §1.21.

K. 1598 Fulton St.

AL090081

The landlord appeals the decision granting a claim of decreased housing services.

VI. Communications

VII. Director's Report

VIII. Old Business

Petitions for Extension of Time To Do Capital Improvement Work
(Rules and Regulations §12.15)

IV. Remarks from the Public (cont.)

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

IX. New Business

X. Calendar Items

XI. Adjournment

NOTE: If any materials related to an item on this agenda have been distributed to the Commission after distribution of the agenda packet, those materials are available for public inspection at the office of the Rent Board during normal office hours.



ACCESSIBLE MEETING POLICY

American sign language interpreters will be available upon request. Please contact the Rent Board at 252-4603 at least 72 hours prior to the meeting. Translation services, sound enhancement or alternative formats are available if requested at least 72 hours prior to the meeting. Call 252-4603 to place your specific request. Late requests will be honored if possible.

會議提供翻譯服務，聲量增強器或其他信息安排，但必須在會議舉行七十二小時之前提出申請。申請電話號碼是 252-4603。

Se pueden obtener servicios de traduccion, ampliacion de sonida, u otras formas de presentacion si se solicitan por lo menos 72 horas antes de la reunion. Llame al 252-4603 para hacer su solicitud.

In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City to accommodate these individuals.

Rent Board Commission meetings are held at 25 Van Ness Avenue, Suite 70, lower level, and are wheelchair accessible. The closest accessible BART station is located at Civic Center. All MUNI Metro lines at Van Ness and Market Street are accessible. For other accessible MUNI lines serving this location and information about MUNI accessible services, call 923-6142.

There is accessible parking available on adjacent streets (Oak Street and Hickory). Metered street parking is also available.

Policy of Nondiscrimination on the Basis of Disability and Equal Employment Opportunity Statement

The Rent Board does not discriminate on the basis of disability in employment or in the admission and access to its programs or activities.

Timothy Lee has been designated to coordinate this agency's compliance with the nondiscrimination requirements of Title II of the Americans with Disabilities Act (ADA). Information concerning the provisions of the ADA, and the rights provided under the Act, are available from the ADA Coordinator. The Rent Board TTY number is 554-9845.

Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the Ordinance, contact the Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlet Place, Room 244, San Francisco, CA 94102 at 554-7724.

City and County of San Francisco

Residential Rent Stabilization
and Arbitration Board



DAVID GRUBER
PRESIDENT

MINUTES OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,

GAVIN NEWSOM
MAYOR

DELENE WOLF
EXECUTIVE DIRECTOR

Tuesday, March 17, 2009 at 6:00 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

GOVERNMENT
DOCUMENTS DEPT

MAR 27 2009

SAN FRANCISCO
PUBLIC LIBRARY

BROOKS BEARD
DAVE CROW
DEBORAH HENDERSON
JIM HURLEY
ANTHONY JUSTMAN
POLLY MARSHALL
CATHY MOSBRUCKER
NEVED MOSSER
BARTHOLOMEW MURPHY

Call to Order

President Gruber called the meeting to order at 6:07 p.m.

II. Roll Call

Commissioners Present: Beard; Gruber; Henderson; Hurley; Mosser.
Commissioners not Present: Crow; Justman; Mosbrucker; Murphy.
Staff Present: Gartzman; Lee; Wolf.

Commissioner Marshall appeared on the record at 6:10 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of February 17, 2009.
(Henderson/Hurley: 4-0)

IV. Remarks from the Public

A. Tenant Anastasia Yovanopoulos of 3718 – 24th St. (AT090077) told the Board that the landlord declared that there are separate meters for the laundry facilities in the building, but PG&E may not agree that this is the case.

B. Mukundagiri Venkatachari of 355 Serrano (AT090079) asked the Commissioners if the new utility passthrough procedures make passthroughs "almost automatic," with no opportunity for tenants to comment.

C. Attorney Miriam Smith appeared on behalf of tenant Karla Hour of 1327 Bay St. (AT090074). Ms. Smith said that the tenant is seeking a re-hearing on the landlord's claim that the subject unit is not the tenant's principal place of residence. Ms. Smith told the Board that the tenant was not represented at the hearing while the landlord was, which was prejudicial to the tenant. Ms. Smith



also claimed that her client did not understand what was going on at the proceedings in her case.

D. Attorney John Zanghi appeared on behalf of the landlord in the case at 1327 Bay Street. Mr. Zanghi objected to the late request for a re-hearing and disputed the contention that the tenant didn't understand what was occurring, since she has been in this country for 23 years and run two businesses. Mr. Zanghi said that the tenant had no credibility, as she was served with the rent increase notice at 8:30 p.m. in a building in Vallejo; the tenants in the subject building never see her; and ads to sublet the premises were placed on Craigslist. Mr. Zanghi told the Board that the tenant had a representative who provided a closing brief to the Administrative Law Judge (ALJ), for which the record was re-opened.

E. Attorney Josef Pertez appeared on behalf of the tenant at 2600 – 47th Ave. (AL090072), saying that the Decision is well reasoned and balances time and compensation issues. Mr. Pertez alleged that the landlord's appeal throws up irrelevant issues that could have been brought up at the hearing if the landlord hadn't failed to appear. Mr. Pertez maintained that new evidence shouldn't be permitted.

F. Landlord Francis Ha of 2600 – 47th Ave. told the Board that he doesn't understand the system and that he is "nervous and powerless," with no money. Mr. Ha said that the tenant asked for \$15,000 to vacate and he said he would give her more time to move. Mr. Ha feels that the Decision is unfair, and asked the Board for two more weeks and one more chance.

G. Tenant Karla Hour told the Board that she has lived in this country for almost 22 years but never went to school here. She said that she is not always home because she works very hard making custom wedding gowns. Ms. Hour maintained that the Bay Street unit is her home and the landlord who passed away knew that. Ms. Hour explained that her partner passed away in January, she has a bad memory and doesn't remember names and said that she didn't have enough time to find an attorney prior to the hearing. Ms. Hour doesn't believe in resolving things through the courts and asked the Board for another chance.

H. Tenant Daniel Mark Andrews of 1437 – 23rd Ave. (AL090075) asked the Board to reject the landlord's appeal because none of the 3 main points are valid. Mr. Andrews said that the landlord only alleged bias on the part of the ALJ after she received a Decision in the case, although she could have raised this concern at the hearing. Mr. Andrews claimed that the landlord failed to take reasonable action regarding the noisy neighbors, only doing 3 things over a 3-year period.

Mr. Andrews also pointed out that the rent reduction did not go back to the first time the landlord was notified of the problem.

I. Chelsea Andrews, Daniel Mark Andrew's daughter, said that the landlord's appeal should be denied and asked the Board to honor the tenant's request.

J. Michael Wellington said that he is Karla Hour's "Home Teacher" through their church. Mr. Wellington said that he has visited Karla at the Bay Street unit a number of times over the past year and that the building in Vallejo is a project, and not her residence.

K. Debby Kwok, the landlord at 1437 – 23rd Ave., said that the problem was that the tenants didn't get along and filed noise complaints against each other over the last 3 years. Ms. Kwok maintained that she had an obligation to be fair and impartial and that she did what she could within the law and Rent Board guidelines. Ms. Kwok said that she took reasonable steps by sending letters and making phone calls, trying to independently verify by talking to neighbors, consulting with attorneys and requesting mediation at the Rent Board.

L. Stella Lau, a co-owner of 1437 – 23rd Ave., said that the ALJ should have recused himself because he conducted a prior mediation with the same parties. Ms. Lau alleged that the ALJ was biased and unfair to the landlords. Ms. Lau also maintained that the rent reduction was granted for 36 months instead of 12, and said that the tenant did not meet his burden of proof for the other 2 years.

M. Gloria Alioto spoke on behalf of Karla Hour as they are in the same congregation. Ms. Alioto said that she has been Ms. Hour's "Visiting Teacher" for 7 years and has called or visited her once a month at the Bay Street address. Ms. Alioto said that the current owner of the property is the nephew of the deceased prior owner and that the Vallejo property is a business.

N. Micki Weston is also a "Visiting Teacher" for Karla Hour and said that she has had dinner at the Bay Street unit. Ms. Weston said that there are clothes and furnishings at Bay Street, and that it is Ms. Hour's place of residence. Ms. Weston asked that the Board grant Ms. Hour another hearing so that she and the other church members could testify, since Ms. Hour has been grieving the loss of her partner and dealing with his business over the past year.

V. Consideration of Appeals

A. 17 Grijalva Dr.

AT090071

The landlord's petition for approval of utility passthroughs in this multi-unit complex was granted. One tenant appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Henderson/Marshall: 5-0)

B. 729 Jones #509

AT090073

The landlord's petition for approval of utility passthroughs for 26 of 81 units was granted. One tenant appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Marshall/Hurley: 5-0)

C. 350 Arballo #11J

AT090076

The landlord's petition for approval of utility passthroughs for 45 of 153 units was granted. One tenant appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Marshall/Hurley: 5-0)

D. 201 Divisadero

AT090082

The landlord's petition for approval of utility passthroughs for 7 of 8 units was granted. One tenant appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Marshall/Henderson: 4-1; Gruber dissenting)

E. 3718 – 24th St.

AT090077 & -78

The landlord's petition for approval of utility passthroughs for 2 of 6 units was granted. One tenant appeals the decision on the basis of financial hardship and on the grounds that the costs for gas and electricity for the laundry facility on the premises are already recovered because the appliances are coin-operated.

MSC: To accept appeal number AT090078 and remand the case to the Administrative Law Judge for a hearing on the tenant's claim of financial hardship. (Henderson/Marshall: 5-0)

MSC: To accept appeal number AT090077 and remand the case to the Administrative Law Judge to look into the issue of whether the laundry facilities are separately metered. (Marshall/Hurley: 5-0)

F. 355 Serrano Dr. 12A & 12C

AT090079 & -80

The landlord's petition for approval of utility passthroughs to 44 of 153 units was granted. The tenants in two units appeal the decision on the grounds that: the cost of gas to supply hot water to the units must be separated out because the gas is not provided directly to the tenants and hot water is not a utility that can be passed on; the boiler is not a "common area"; each storage area should be counted as one room; the utility costs for the laundry room were underestimated; and utility costs associated with construction work should not have been allowed.

MSC: To deny the appeals. (Hurley/Marshall: 5-0)

G. 2600 – 47th Ave.

AL090072

The tenant's petition alleging decreased housing services due to habitability problems in the unit was granted, in part, and the landlord was found liable to the tenant in the amount of \$750.00. The landlord appeals, maintaining that: the tenant was asked to vacate the premises for the landlord's father-in-law but demanded \$15,000 and has refused to move; the tenant has violated the agreement that there be no pets on the property; the tenant has failed to provide the landlord with a key to her unit and changed the lock without permission; the tenant abandoned the premises for a year; the tenant failed to pay rent for two months, which presents a hardship for the landlord; the landlord's postponement request should have been granted; the landlord did not understand the notices he received from the Rent Board, since English is not his native language; and the tenant's rent is less than the neighborhood average.

MSC: To deny the appeal. (Henderson/Gruber: 5-0)

H. 1018 Cortland #7

AT090070

The tenant's petition alleging decreased housing services, the landlord's failure to repair and unlawful rent increases was granted as to some of the decreased housing claims only, and the landlords were found liable to the tenant in the amount of \$666.26. The tenant appeals, claiming that: the current owners should not be entitled to banked rent increases that former owners failed to impose; the Decision is incorrect in stating that he withdrew additional plumbing claims at the hearing; repair work in his apartment was not adequately done; he was provided with two storage spaces at the inception of his tenancy; he was erroneously informed of the filing deadline for his failure to repair claim by a Rent

Board employee; he did not refuse the landlord access to the apartment to make the repairs; and the tenants in the building used the roof as a common area.

MSC: To deny the appeal. (Hurley/Gruber: 5-0)

I. 1437 – 23rd Ave.

AL090075

The tenant's petition alleging decreased housing services was granted and the landlords were found liable to the tenant in the amount of \$7,675.00 due to excessive noise from a neighboring unit and \$525.00 due to second-hand smoke in the unit. On appeal, the landlord maintains that: the Administrative Law Judge was biased due to pre- and post-hearing communications with the tenant; the landlord took timely and appropriate actions to ameliorate the problem; the landlord was in a difficult position in determining which of the tenants was at fault; the decision does not follow precedent set by prior decisions of the Board; the landlord was not given a reasonable amount of time to address the problems; the tenant failed to prove that rent reductions were warranted for more than one year prior to the filing of the petition; the amounts granted are excessive and unfair; there are factual errors in the decision; and the upstairs tenant has moved out, so housing services have been restored.

MSC: To deny the appeal. (Marshall/Henderson: 5-0)

J. 1327 Bay St. #A

AT090074

The landlord's petition seeking a determination pursuant to Rules Sections 1.21 was granted because the Administrative Law Judge found that the subject unit was not the tenant's principal place of residence. On appeal, the tenant claims that: English is not the tenant's native language which led to misunderstandings and errors in the Decision; false evidence was presented by the landlord; she did not place ads on the internet to rent out the unit but, rather, had roommates; it was the prior owner's wish that she be allowed to stay in the building as long as she wished; church records show the subject unit as her principal place of residence; the tenant spent time at two other units for commercial reasons; she did not understand the ramifications of taking a homeowner's exemption on another property; and she uses a post office box because mail was taken from the mailbox at the subject unit.

MSC: To deny the appeal. (Hurley/Gruber: 5-0)

K. 1598 Fulton St.

AL090081

The tenant's petition alleging decreased housing services was granted only as to a water leak in the bathroom and the landlords were found liable to the tenant in

the amount of \$3,700.00. On appeal, the landlords maintain that both the landlord's agent and contractor believed that the leak had been fixed several years before and the tenant has failed to prove that she provided notice as to the continuing problem after that date.

MSC: To deny the appeal. (Henderson/Marshall: 5-0)

VI. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

A. A copy of the case of Clark v. Mazgani (Los Angeles Superior Court No. BC358995).

B. A Pending Litigation Status Report from Senior Administrative Law Judge Tim Lee.

C. The office Monthly Workload Statistics for the months of December 2008 and January 2009.

D. A Statement calling for the dissolution of the Rent Board from SRO tenant Allen White.

E. Articles from the S.F. Chronicle, the S.F. Daily Journal, and the New York Times.

F. Press Releases from City Attorney Dennis Herrera and Tenants Together regarding the rights of tenants in foreclosed properties.

VII. Director's Report

Executive Director Delene Wolf told the Board that another lawsuit challenging Proposition M has been filed by the Small Property Owners of San Francisco and Tim Carrico. She also reminded the Commissioners that their Form 700 Statements of Economic Interest are due by April 1st.

VIII. Old Business

Petitions for Extension of Time To Do Capital Improvement Work
(Rules and Regulations §12.15)

Discussion of this issue was continued to the meeting of April 21st.

IV. Remarks from the Public (cont.)

O. Landlord Francis Ha said that he doesn't agree with the remarks that were made concerning his appeal. Mr. Ha said that he couldn't attend the second hearing because no attorney would help him and that he has no access to his back yard. Mr. Ha believes that the Board wants to "help the victim," but feels that he is the victim. Mr. Ha also maintained that he is a "distressed homeowner asking for one more negotiation," rather than a landlord.

P. Tenant Mukundagiri Venkatachari expressed his disappointment with the Board's denial of his appeal. Mr. Venkatachari said that Rules §6.16 provides for the passthrough of charges for electricity, gas and steam, but not hot water, which is supposed to be supplied directly to the units or common areas. He said that the laundry room methodology has been approved in prior decisions, but the numbers are incorrect. He alleged that Parkmerced management engages in systematic attempts to downplay the amount of utilities used, and he had hoped for a hearing to explore these and other issues.

Q. Attorney Miriam Smith, representing tenant Karla Hour, said that she teaches law at S.F. State University and has had the experience of thinking that her students understand what is being said, and finding out that the non-native English speakers did not. Ms. Smith told the Board that visual and auditory learners are different, and Karla Hour is a "visual thinker." Ms. Smith feels that it is unfair when one party is represented in a hearing and the other is not, and told the Board she will "continue on with her remedies."

X. Calendar Items

March 24, 2009 – NO MEETING

March 31, 2009

12 appeal considerations

XI. Adjournment

President Gruber adjourned the meeting at 7:50 p.m.

NOTE: If any materials related to an item on this agenda have been distributed to the Commission after distribution of the agenda packet, those materials are available for public inspection at the office of the Rent Board during normal office hours.



**NOTICE OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,**

GAVIN NEWSOM
MAYOR

DAVID GRUBER
PRESIDENT

Tuesday, 6:00 p.m.,
March 31, 2009

DELENE WOLF
EXECUTIVE DIRECTOR

25 Van Ness Avenue, #70, Lower Level

BROOKS BEARD
DAVE CROW
DEBORAH HENDERSON
JIM HURLEY
ANTHONY JUSTMAN I.
POLLY MARSHALL
CATHY MOSBRUCKER
NEVEO MOSSER II.
BARTHOLOMEW MURPHY

AGENDA

GOVERNMENT
DOCUMENTS DEPT

MAR 27 2009

SAN FRANCISCO
PUBLIC LIBRARY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

- V. Consideration of Appeals

A. 1616 Taylor St. AT090097

The tenant appeals the decision certifying capital improvement costs on the grounds of financial hardship.

B. 642 Shrader St. AT090083

The tenant appeals the decision certifying capital improvement costs on the grounds of financial hardship.

C. 2813/2815 – 19th St. AL090087

The landlord appeals the dismissal of his petition requesting certification of capital improvement costs due to his failure to appear at the hearing.

D. 738-40-42 Treat AL090088

The landlord appeals the dismissal of his petition requesting certification of capital improvement costs due to his failure to appear at the hearing.



E. 339 – 20th Ave.

AL090089

The landlord appeals the decision granting claims of decreased housing services on the grounds of financial hardship.

F. 929 Broderick, Apts. 5 & 1

AT090090 & -94

Two tenants appeal the decision granting rent increases based on increased operating expenses.

G. 1000 Mason St.

AL090093

The landlord appeals the dismissal of a petition seeking approval of utility passthroughs.

H. 935 Geary #211 & 601

AT090095 & -96

Two tenants appeal the decision certifying capital improvement costs on the grounds of financial hardship.

I. 306 Arguello #304

AT090085 & -86

The tenant appeals the decision granting a rent increase pursuant to Rules §6.14 on substantive grounds and on the basis of financial hardship.

J. 1373 – 9th Ave.

AL090084

The landlord appeals the decision finding that the subject single family dwelling is subject to the jurisdiction of the Rent Board because there is a continuing tenancy that commenced prior to January 1, 1996.

K. 3640 Fillmore #105

AL090091

The landlord appeals the decision finding that a rent increase was not warranted under Costa-Hawkins.

L. 950 Quintara #1

AL090092

The landlords appeal the decision denying a rent increase based on comparable rents.

VI. Communications

- VII. Director's Report
- VIII. Old Business
- IV. Remarks from the Public (cont.)

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

- IX. New Business
- X. Calendar Items
- XI. Adjournment

NOTE: If any materials related to an item on this agenda have been distributed to the Commission after distribution of the agenda packet, those materials are available for public inspection at the office of the Rent Board during normal office hours.



ACCESSIBLE MEETING POLICY

American sign language interpreters will be available upon request. Please contact the Rent Board at 252-4603 at least 72 hours prior to the meeting. Translation services, sound enhancement or alternative formats are available if requested at least 72 hours prior to the meeting. Call 252-4603 to place your specific request. Late requests will be honored if possible.

會議提供翻譯服務，聲量增強器或其他信息安排，但必須在會議舉行七十二小時之前提出申請。申請電話號碼是 252-4603。

Se pueden obtener servicios de traduccion, ampliacion de sonida, u otras formas de presentacion si se solicitan por lo menos 72 horas antes de la reunion. Llame al 252-4603 para hacer su solicitud.

In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City to accommodate these individuals.

Rent Board Commission meetings are held at 25 Van Ness Avenue, Suite 70, lower level, and are wheelchair accessible. The closest accessible BART station is located at Civic Center. All MUNI Metro lines at Van Ness and Market Street are accessible. For other accessible MUNI lines serving this location and information about MUNI accessible services, call 923-6142.

There is accessible parking available on adjacent streets (Oak Street and Hickory). Metered street parking is also available.

Policy of Nondiscrimination on the Basis of Disability and Equal Employment Opportunity Statement

The Rent Board does not discriminate on the basis of disability in employment or in the admission and access to its programs or activities.

Timothy Lee has been designated to coordinate this agency's compliance with the nondiscrimination requirements of Title II of the Americans with Disabilities Act (ADA). Information concerning the provisions of the ADA, and the rights provided under the Act, are available from the ADA Coordinator. The Rent Board TTY number is 554-9845.

Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the Ordinance, contact the Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlet Place, Room 244, San Francisco, CA 94102 at 554-7724.



**MINUTES OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,**

GAVIN NEWSOM
MAYOR

DELENE WOLF
EXECUTIVE DIRECTOR

DAVID GRUBER
PRESIDENT

Tuesday, March 31, 2009 at 6:00 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

BROOKS BEARD
DAVE CROW
DEBORAH HENDERSON
JIM HURLEY
ANTHONY JUSTMAN
POLLY MARSHALL
CATHY MOSBRUCKER
NEVEO MOSSER
BARTHOLOMEW MURPHY

GOVERNMENT
DOCUMENTS DEPT

APR 17 2009

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PUBLIC LIBRARY

Call to Order

President Gruber called the meeting to order at 6:02 p.m.

II. Roll Call

Commissioners Present: Beard; Crow; Gruber; Henderson; Justman;
Mosser.
Commissioners not Present: Justman; Marshall; Murphy.
Staff Present: Lee; Wolf.

Commissioner Mosbrucker appeared on the record at 6:04 p.m.;
Commissioner Hurley arrived at the meeting at 6:10 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of March 17, 2009.
(Henderson/Mosser: 5-0)

IV. Remarks from the Public

A. Landlord Robert Vorhees of 2813/15 19th St. (AL090087) suggested that the agency also provide parties with e-mail notification of hearing dates.

B. Attorney Michael Hall, representing the landlord in the case at 3640 Fillmore (AL090091), said that the rent increase was declared invalid because a landlord/tenant relationship had been established, but the tenants had actually attempted to "fly under the radar." Mr. Hall told the Board that: the rent was tendered in the name of the original tenant, the tenant's sister; a Costa-Hawkins increase was given promptly after discovering that the original tenant had vacated; and the landlord did not recognize that the "illegible" signature on the checks was not that of the original tenant's. Mr. Hall maintained that several of



the "core findings" of the decision are false, as demonstrated by the transcript of the hearing.

C. Landlord Leon Ribay of 738-40-42 Treat (AL090088) said that his capital improvement petition was dismissed because he was late to the hearing. Mr. Ribay explained that he had a stomach problem and had to go see his doctor in Daly City. Mr. Ribay requested another hearing, since he spent in excess of \$54,000 on new back stairs.

V. Consideration of Appeals

A. 1616 Taylor St.

AT090097

The landlord's petition for certification of capital improvement costs was granted. One tenant appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship.
(Mosbrucker/Henderson: 5-0)

B. 642 Shrader St.

AT090083

The landlord's petition for certification of the costs of a new roof to the tenant in a single-family residence was granted, resulting in a monthly passthrough in the amount of \$44.77. The tenant appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Henderson/Mosbrucker: 4-1; Gruber dissenting)

C. 2813/2815 – 19th St.

AL090087

The landlord's petition for certification of capital improvement costs was dismissed due to his failure to appear at the properly noticed hearing. The landlord appeals, providing evidence that he was out of the country at the time the hearing was scheduled.

MSC: To accept the appeal and remand the case for a new hearing.
(Hurley/Henderson: 5-0)

D. 738-40-42 Treat

AL090088

The landlord's petition seeking certification of capital improvement costs was dismissed due to the landlord's failure to appear at the properly noticed hearing. On appeal, the landlord claims that a medical condition necessitated his seeing his doctor on the morning of the hearing.

MSC: To accept the appeal and remand the case for a new hearing.
(Hurley/Gruber: 5-0)

E. 339 – 20th Ave.

AL090089

The tenant's petition alleging decreased housing services was granted and the landlord was found liable to the tenant in the amount of \$2,668.60 due to lack of a functional heating source and a changed parking configuration. The landlord appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case to the Administrative Law Judge for a hearing on the landlord's claim of financial hardship; no later than one week prior to the hearing, any other owners of the property must also submit a copy of the Landlord Hardship Application, with a copy to the tenant by that date as well. (Mosbrucker/Gruber: 5-0)

F. 929 Broderick, Apts. 5 & 1

AT090090 & -94

The landlord's petition seeking rent increases based on increased operating expenses to 4 of 5 units was granted. The tenant in unit #5 appeals the decision on the grounds that the base rent used to calculate the operating expense increase for his unit is incorrect. The tenant in unit #1 appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal of the tenant in unit #5 and remand the case to be consolidated with the tenant petition that has been filed to determine the lawful base rent.
(Henderson/Mosbrucker: 5-0)

MSC: To accept the appeal of the tenant in unit #1 and remand the case for a hearing on the tenant's claim of financial hardship.
(Henderson/Mosbrucker: 5-0)

G. 1000 Mason St.

AL090093

The landlord's petition for approval of utility passthroughs for 39 of 50 units was dismissed because the landlord failed to provide evidence of the actual utility costs, including electricity, that were incurred. On appeal, the landlord explains

that the current manager of the building was not informed of the deficiencies in the petition because that information was not forwarded by the former manager of the property.

MSC: To accept the appeal and remand the case to allow the landlord to pursue the petition. (Gruber/Henderson: 5-0)

H. 935 Geary #211 & 601

AT090095 & -96

The landlord's petition for certification of capital improvement costs to 46 of 115 units was granted. Two tenants appeal the decision on the grounds of financial hardship.

MSC: To accept the appeal of the tenant in unit #211 and remand the case for a hearing on the tenant's claim of financial hardship. (Henderson/Mosbrucker: 5-0)

MSC: To accept the appeal of the tenant in unit #601 and remand the case for a hearing on the tenant's claim of financial hardship. (Henderson/Mosbrucker: 5-0)

I. 306 Arguello #304

AT090085 & -86

The tenant's petition alleging an unlawful increase in rent was denied because the Administrative Law Judge (ALJ) found that the rent increase from \$663.13 to \$1,600.00 was warranted pursuant to Rules §6.14. A claim of failure to repair was denied because code violations were remedied as of the effective date of the notice. The tenant's decrease in services claim was partially granted and the landlord was found liable to the tenant in the amount of \$300.00 due to lack of heat in the unit. The tenant appeals, claiming that: the ALJ engaged in ex parte communication with the landlord; neither she or her mother received or signed for the 6.14 notice; there was no heat in the unit for over eight years, despite repeated oral requests, rather than two months; and the rent increase presents her with a financial hardship.

MSC: To deny both appeals. (Hurley/Gruber: 5-0)

J. 1373 – 9th Ave.

AL090084

The landlord filed a petition seeking a determination as to whether the subject single-family dwelling is subject to the jurisdiction of the Rent Board. The Administrative Law Judge found that, although the subject unit is separately alienable from any other dwelling unit, the continuing tenancy began before January 1, 1996 and the unit is therefore not exempt pursuant to Costa-Hawkins.

On appeal, the landlord argues that the Estoppel Certificate provided by the tenants indicated that they moved in after January 1, 1996, upon which the landlord relied and the tenants are estopped from disclaiming; the Cobb case is inapplicable because it deals with vacancy decontrol after the last original tenant no longer resides on the premises; and evidence of the tenancy having commenced at an earlier date constitutes inadmissible hearsay.

MSC: To deny the appeal. (Mosbrucker/Henderson: 4-1; Gruber dissenting)

K. 3640 Fillmore #105

AL090091

The tenant's petition challenging a rent increase from \$1,068.00 to \$2,650.00 was granted because the ALJ found that the tenant was a tenant, and not a subtenant or assignee, and therefore the rent increase was not authorized by Costa-Hawkins. It was additionally found that a 6.14 notice was not timely served. On appeal, the landlords claim that: the landlords were unaware that the original tenant no longer lived in the unit until just prior to serving the notice of rent increase; the tenants intentionally concealed the fact that the original tenant no longer resided in the unit; the 6.14 notice was timely served; there are factual errors and incorrect conclusions in the decision; the landlord did not knowingly accept rent from the tenant; the Rent Board attempted to interfere in the judicial process to the detriment of the landlords; the petitioners presented only a partial evidentiary record, which may have been intentional, as well as hearsay; the ALJ disregarded the landlords' evidence; and the burden of proof was incorrectly placed entirely on the landlords.

MSC: To deny the appeal except to remand the case to the Administrative Law Judge for Technical Corrections as to the move-in date and the amount of rent. (Mosbrucker/Henderson: 3-2; Gruber, Hurley dissenting)

L. 950 Quintara #1

AL090092

The landlords' petition for a rent increase from \$724.00 to \$1,448.00 was denied because the ALJ found that the landlords failed to establish a comparable rent for the subject unit. The landlords appeal the decision, asserting that: the Rules and Regulations only require that the landlord show that the initial rent for the unit was set low, but not that they prove the amount of rent for a comparable unit; the landlords' expert reasonably proved that the subject unit's rent is lower than that of comparable units; and the ALJ exhibited bias against the landlords and for the tenants.

MSC: To accept the appeal and remand the case for a supplemental hearing to allow the parties to produce additional evidence on the issue of what a comparable rent for the unit would be.
(Beard/Gruber: 5-0)

VI. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received copies of articles from the San Francisco Business Times and the San Francisco Examiner.

IV. Remarks from the Public (cont.)

D. Landlord Attorney Michael Hall told the Board that in the disposition of the case concerning 3640 Fillmore Street, it appeared that the Commissioners thought the landlord had the burden of proof. Mr. Hall said that all the issues were resolved against the landlord on the "flimsiest of evidence," there was nothing in the record to support several of the findings in the decision and there were several false statements in the findings.

VII. Calendar Items

April 7th & 14th, 2009 – NO MEETINGS

April 21, 2009

9 appeal considerations

Old Business: Petitions for Extension of Time (Rules §12.15)

XI. Adjournment

President Gruber adjourned the meeting at 7:05 p.m.

NOTE: If any materials related to an item on this agenda have been distributed to the Commission after distribution of the agenda packet, those materials are available for public inspection at the office of the Rent Board during normal office hours.

City and County of San Francisco



DAVID GRUBER
PRESIDENT

**NOTICE OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,**

**Residential Rent Stabilization
and Arbitration Board**

GAVIN NEWSOM
MAYOR

DELENE WOLF
EXECUTIVE DIRECTOR

Tuesday, 6:00 p.m.,
April 21, 2009

25 Van Ness Avenue, #70, Lower Level

AGENDA

04-17-09P01:45 RCVD

BROOKS BEARD
DAVE CROW
DEBORAH HENDERSON
JIM HURLEY
ANTHONY JUSTMAN I.
POLLY MARSHALL
CATHY MOSBRUCKER
NEVEO MOSSER II.
BARTHOLOMEW MURPHY

Call to Order

Roll Call

III. Approval of the Minutes

IV. Remarks from the Public

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

V. Consideration of Appeals

A. 570 – 36th Ave. AL090105

The landlord appeals the decision partially granting claims of decreased housing services.

B. 651 Peralta Ave. #A AT090100

The tenant appeals the remand decision denying his financial hardship appeal.

C. 505 – 26th Ave. #1 & #3 AL090101

The landlord appeals the decision denying approval of utility passthroughs.

D. 643 Oak #4 AL090099

The landlord appeals the decision granting claims of unlawful rent increases and decreased housing services.

E. 765 Geary #405 & 102 AT090108 & -09

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Two tenants appeal the decision granting rent increases based on increased operating expenses.

F. 1294 Vallejo #3

AT090102

The tenant appeals the decision denying a claim of unlawful rent increase.

G. 1302 York St.

AL090103

The Master Tenant appeals the decision granting a claim of decreased housing services.

H. 161 Powell #406

AT090098

The tenant appeals the decision denying a claim of decreased housing services.

I. 1440 Sacramento #3

AL090104

The landlord appeals the decision partially granting claims of decreased housing services.

VI. Communications

VII. Director's Report

VIII. Old Business

Petitions for Extension of Time To Do Capital Improvement Work
(Rules and Regulations §12.15)

IV. Remarks from the Public (cont.)

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

IX. New Business

X. Calendar Items

XI. Adjournment

NOTE: If any materials related to an item on this agenda have been distributed to the Commission after distribution of the agenda packet, those materials are available for public inspection at the office of the Rent Board during normal office hours.



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Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

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DAVID GRUBER
PRESIDENT

**MINUTES OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,**

GAVIN NEWSOM
MAYOR

DELENE WOLF
EXECUTIVE DIRECTOR

Tuesday, April 21, 2009 at 6:00 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

BROOKS BEARD
DAVE CROW
DEBORAH HENDERSON
JIM HURLEY
ANTHONY JUSTMAN
POLLY MARSHALL
CATHY MOSBRUCKER
NEVEO MOSSER
BARTHOLOMEW MURPHY

Call to Order

President Gruber called the meeting to order at 6:00 p.m.

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II. Roll Call

Commissioners Present: Beard; Gruber; Henderson; Mosbrucker;
Murphy; Mosser.
Commissioners not Present: Hurley; Justman.
Staff Present: Lee; Wolf.

Commissioner Murphy appeared on the record at 6:10 p.m.; Commissioner
Marshall arrived at the meeting at 6:14 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of March 31, 2009.
(Mosbrucker/Henderson: 5-0)

IV. Remarks from the Public

A. Tenant Roy Bowers of the Herbert Hotel (161 Powell St.; AT090098) told
the Board that he felt it necessary to file an appeal so that the hotel tenants could
"get their lives back." Mr. Bowers feels that the hotel is being compromised by
management and young students. He asked that the Commissioners consider all
the evidence and "do the right thing."

V. Consideration of Appeals

A. 570 – 36th Ave.

AL090105

The tenants' petition alleging decreased housing services was granted, in part,
and the landlord was found liable to the tenants in the amount of \$4,877.95 due



to habitability defects on the premises. The landlord appeals, claiming that: the tenants' complaints were unfounded and unproved; and the tenants failed to pay rent for over six months and owe the landlord in excess of \$10,000.00.

MSC: To deny the appeal. (Mosbrucker/Marshall: 5-0)

B. 651 Peralta Ave. #A

AT090100

The tenant's request for a deferral of an approved capital improvement passthrough was denied because the Administrative Law Judge (ALJ) found that the tenant was not credible in reporting and explaining his income. On further appeal, the tenant claims that: there are factual errors in the decision; his credit card debt is due to previous personal and recent business credit debt; his unemployment income makes him ineligible for Food Stamps; and he has been as transparent as possible in explaining his financial circumstances.

MSC: To deny the appeal. (Murphy/Gruber: 4-1; Mosbrucker dissenting)

C. 505 – 26th Ave. #1 & #3

AL090101

The landlord's petition for approval of utility passthroughs to 2 of 5 units was denied because the ALJ found that the landlord had been reimbursed by non-party tenants for a portion of the comparison utility costs and that there had therefore been no increase. The landlord appeals, arguing that: the ALJ erred in determining the amount that he had been reimbursed; the decision is in error as to the number of rooms in the building; and the file had been temporarily lost prior to the hearing.

MSC: To deny the appeal. (Mosbrucker/Marshall: 5-0)

D. 643 Oak #4

AL090099

The tenant's petition alleging unlawful rent increases and decreased housing services was granted and the landlord was found liable to the tenant in the amount of \$5,337.35 for rent overpayments and \$860.00 for habitability problems in the subject unit. The landlord appeals, claiming that: the tenant agreed to pay additional rent increases for bond and utility passthroughs, operating expenses and capital improvements; the tenant has violated the terms of her rental agreement; and the tenant's appeal has no merit and is unjustified.

MSC: To deny the appeal. (Henderson/Mosbrucker: 5-0)

E. 765 Geary #405 & 102

AT090108 & -09

MSC: To recuse Commissioner Mosser from consideration of these appeals. (Murphy/Mosbrucker: 5-0)

The tenant in unit #102 filed his appeal four days late because the tenant was being treated for asthma at the time the decision was issued.

MSC: To find good cause for the late filing of the appeal.
(Marshall/Mosbrucker: 5-0)

The landlord's petition for rent increases to 17 of 49 units was granted. The tenant in unit #405 appeals the decision on the grounds that: he is paying too much rent because his unit is supposed to be a studio, but is not; and he is suffering from decreased housing services. The tenant in unit #102 appeals the decision on the grounds of financial hardship.

MSC: To deny the appeal of the tenant in unit #405.
(Mosbrucker/Gruber: 5-0)

MSC: Pursuant to the stipulation of the landlord, to grant the tenant in unit #102 a deferral of the approved rent increase for a period of one year. After that time, if the tenant is still experiencing financial hardship, he may file to re-open the case.
(Marshall/Murphy: 5-0)

F. 1294 Vallejo #3

AT090102

The tenant's petition alleging an unlawful rent increase was denied because the ALJ found that the rent was temporarily discounted by the landlord from the prior agreed-upon base rent amount, and that the restoration of the prior base rent amount did not constitute a rent increase. The tenant appeals, alleging that: the ALJ exhibited bias towards the landlord during the hearing; and the increase from \$900 to \$1100 was not based on any discussion of a temporary reduction because the landlord had not had time to prepare the unit.

MSC: To deny the appeal. (Henderson/Mosser: 5-0)

G. 1302 York St.

AL090103

The Master Tenant's appeal was filed one day late because she had to travel out of state for her grandmother's funeral.

MSC: To find good cause for the late filing of the appeal.
(Murphy/Marshall: 5-0)

The subtenant filed a petition alleging unlawful rent increases and decreased housing services. The ALJ found that the subtenant's rent was lawful and proportionate. However, the Master Tenant was found liable to the subtenant in the amount of \$202.50 due to the subtenant's having no access to the shared mailbox and subsequent failure to receive mail in a timely manner. The Master Tenant failed to appear at the hearing, and on appeal provides a Declaration of Non-Receipt of Notice of Hearing, alleging that there have been mail delivery problems at the unit for over eighteen months. The Master Tenant also claims that: she has always been the only tenant with a key to the mailbox, which was the agreed-upon arrangement at the time the subtenant moved in; and the problems with mail delivery have not been the result of any negligence on her part.

MSC: To accept the appeal and remand the case to the Administrative Law Judge for a new hearing. (Murphy/Marshall: 5-0)

H. 161 Powell #406

AT090098

The tenant's petition alleging a substantial decrease in housing services due to the reconfiguration of the lounge area in this residential hotel was denied. The tenant appeals, maintaining that: the changes to the lounge area have made it so that the tenants cannot use and enjoy the lounge; the facts presented at the hearing do not support the conclusions reached by the ALJ; the relocation of the television to the laundry room denies the tenants use of the television; the tenants are suffering a non-economic hardship related to their general health and well-being by having lost the opportunity for social interaction and a feeling of community; and the landlord presented no compelling reason for the changes that were made.

After discussion, it was the consensus of the Commissioners to continue consideration of this case in order for staff to contact the parties and discuss possible settlement.

I. 1440 Sacramento #3

AL090104

The tenant's petition alleging decreased housing services was granted, in part, and the landlord was found liable to the tenant in the amount of \$245.00 for a defective door buzzer and peeling exterior paint. A failure to repair claim was denied. The landlord appeals, asserting that: the ALJ consistently led the tenant during the hearing; the ALJ did not take into account the time needed to obtain bids and permits; and there is no basis for the amounts of the rent reductions.

MSC: To deny the appeal. (Mosbrucker/Marshall: 5-0)

VI. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received copies of articles from the S.F. Chronicle and BeyondChron.

VII. Director's Report

Executive Director Wolf told the Board that the office received no Ellis filings in the month of March. She also reported that the Senate Judiciary Committee passed SB 290 (Leno), which would repeal the sunset and make permanent the requirement that landlords give tenants a 60-day notice for a no-fault eviction.

VIII. Old Business

Petitions for Extension of Time To Do Capital Improvement Work
(Rules and Regulations §12.15)

Discussion of this issue was continued to the next meeting.

IV. Remarks from the Public (cont.)

B. Leon Ribay, the landlord at 643 Oak #4 (AL090099), asked the Board to reconsider their denial of his appeal. Mr. Ribay maintained that the case constitutes an "injustice," since he and the tenant spoke about the rent increase each year and the tenant agreed to it. Mr. Ribay believes that it is more economical to come to an agreement with the tenant, and avoid the petition process. He said that the tenant has reduced her rent payment prematurely.

IX. New Business

Commissioner Murphy distributed a draft proposed new Rules §4.15, which deals with the issue of restoration of the original rental amount after a voluntary reduction by the landlord. This issue will be discussed at the next meeting.

X. Calendar Items

April 28th and May 5th, 2009 – NO MEETINGS

May 12, 2009

10 appeal considerations (1 cont. from 4/21/09)

Old Business:

- A. Petitions for Extension of Time
- B. Voluntary Rent Reductions

XI. Adjournment

President Gruber adjourned the meeting at 7:00 p.m.

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City and County of San Francisco



DAVID GRUBER
PRESIDENT

NOTICE OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,

Residential Rent Stabilization
and Arbitration Board

GAVIN NEWSOM
MAYOR

DELENE WOLF
EXECUTIVE DIRECTOR

Tuesday, 6:00 p.m.,
May 12, 2009

25 Van Ness Avenue, #70, Lower Level

AGENDA

05-08-09A11:41 RCV D

BROOKS BEARD
DAVE CROW
DEBORAH HENDERSON
JIM HURLEY
ANTHONY JUSTMAN
POLLY MARSHALL
CATHY MOSBRUCKER
NEVEO MOSSER
BARTHOLOMEW MURPHY

I.

Call to Order

II.

Roll Call

III.

Approval of the Minutes

IV.

Remarks from the Public

V.

Consideration of Appeals

A. 534 Hyde #10

AT090118

One tenant appeals the decision granting rent increases based on increased operating expenses on the grounds of financial hardship.

B. 595 John Muir Dr. C520

AT090116

One tenant appeals the decision granting utility passthroughs on the grounds of financial hardship.

C. 4240 Irving St.

AT090119

The tenant appeals the dismissal of a petition claiming decreased housing services, failure to repair and unlawful rent increases based on non-receipt of the Notice of Hearing.

D. 242 - 5th Ave. #5

AT090117

The tenants appeal the decision granting a rent increase based on comparable rents on the grounds of financial hardship.

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E. 29-35 Belcher

AL090113

The landlords appeal the decision denying certification of certain capital improvement costs because the work did not commence within 90 days of the issuance of a Notice of Violation.

F. 240 Cumberland

AL090110

The landlord appeals the decision denying approval of utility passthroughs because the amount of user fees collected for the laundry facilities was not proved.

G. 251 Castro St.

AT090107

The tenants appeal the remand decision finding that the subject unit is not their principal place of residence pursuant to Rules §1.21.

H. 60 Parkridge Dr. #10

AL090115

The landlord appeals the second remand decision finding that water and garbage charges constitute an unlawful rent increase.

I. 2442 Great Highway

AL090114

The landlord appeals the decision granting claims of unlawful rent increases and decreased housing services.

VI. Communications

VII. Director's Report

VIII. Old Business

A. Petitions for Extension of Time To Do Capital Improvement Work (Rules and Regulations §12.15)

B. Restoration or Original Rental Amount After Voluntary Reduction by Landlord

IV. Remarks from the Public (cont.)

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(5.04) snstsh Board/acemtg

City and County of San Francisco



DAVID GRUBER
PRESIDENT

Residential Rent Stabilization
and Arbitration Board

MINUTES OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,

GAVIN NEWSOM
MAYOR

DELENE WOLF
EXECUTIVE DIRECTOR

Tuesday, May 12, 2009 at 6:00 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

BROOKS BEARD
DAVE CROW
DEBORAH HENDERSON
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ANTHONY JUSTMAN
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BARTHOLOMEW MURPHY

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Call to Order

President Gruber called the meeting to order at 6:00 p.m.

II. Roll Call

Commissioners Present: Beard; Crow; Gruber; Henderson; Hurley;
Mosser.
Commissioners not Present: Marshall.
Staff Present: Lee; Wolf.

Commissioner Justman appeared on the record at 6:05 p.m.; Commissioner Mosbrucker arrived at the meeting at 6:15 p.m.; and Commissioner Murphy appeared at 6:20 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of April 21, 2009.
(Henderson/Crow: 5-0)

IV. Remarks from the Public

A. Dorothy Kitt, the landlord in the case at 60 Parkridge Drive (AL090115), said that the tenant submitted affidavits raising new issues which were not served on the landlord, and which caused the Administrative Law Judge (ALJ) to change his decision. Ms. Kitt alleged that she was denied due process, as she did not have a chance to respond.

B. Attorney Dave Hysinder, representing the landlord in the case concerning 251 Castro Street (AT090107), told the Board that this is the tenants' second appeal but no evidence was provided to show that there was a modification of the contract or that the landlord acceded to the tenant's extended absences from the unit. Mr. Hysinder said that the tenants have claimed



hardship but it is expensive to go back and forth to Palm Springs. Mr. Hysinger argued that the landlord has "meticulously followed the rules" and asked that the Board affirm the ALJ's decision.

C. Attorney Andy Westley, representing the tenants in the case at 251 Castro, told the Board that the ALJ found that the tenants had returned full-time to the unit before the conclusion of the hearings. Mr. Westley maintained that the ALJ erred in his interpretation of waiver, citing only one prong of the waiver standard. Mr. Westley credibly testified that he had told the landlord's attorney that the tenants would be away for another year, after which the landlord withdrew the previous 1.21 petition. Mr. Westley said that this is a classic example of waiver and asked that the decision be reversed.

V. Consideration of Appeals

A. 534 Hyde #10

AT090118

The landlord's petition for rent increases to 6 of 12 units based on increased operating expenses was granted. One tenant appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Mosbrucker/Murphy: 5-0)

B. 595 John Muir Dr. C520

AT090116

The tenant's appeal was filed 3-1/2 months late because the tenant is elderly and did not realize that she had the right to file a hardship appeal.

MSC: To find good cause for the late filing of the appeal.
(Murphy/Henderson: 5-0)

The landlord's petition seeking approval of utility passthroughs was granted. One tenant appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Mosbrucker/Henderson: 4-1; Gruber dissenting)

C. 4240 Irving St.

AT090119

The tenant's petition alleging decreased housing services, failure to repair and unlawful rent increases was dismissed due to the tenant's failure to appear at the properly noticed hearing. On appeal, the tenant claims not to have received

notice of the hearing, and attaches the requisite Declaration of Non-Receipt of Notice of Hearing.

MSC: To accept the appeal and remand the case for a new hearing.
(Henderson/Mosbrucker: 5-0)

D. 242 – 5th Ave. #5

AT090117

The landlord's petition for a rent increase based on the rent for comparable units was granted. The tenants in the unit appeal the decision on the grounds of financial hardship.

After discussion, it was the consensus of the Board to continue consideration of this appeal in order for staff to explore possible settlement.

E. 29-35 Belcher

AL090113

The landlords' petition for certification of capital improvement costs was granted, in part. The costs of work on the front exterior of the building were denied because the landlords did not commence the work within 90 days of the issuance of a Notice of Violation. On appeal, the landlords provide a letter from their contractor stating that the six-month delay in commencement of the job was their fault, as they had scheduled 3 other jobs at the same time.

MSC: To deny the appeal. (Mosbrucker/Henderson: 5-0)

F. 240 Cumberland St.

AL090110

The landlord's petitions for approval of utility passthroughs for tenants in three buildings were denied because the landlord collects a user fee for the laundry facilities, but could not prove the amount of user fees collected in the base and comparison years. On appeal, the landlord argues that the rates on the laundry machines have not changed in ten years, nor has any other condition that would affect the amount of user fees collected, and so the revenue remained the same in the base and comparison years.

MSC: To deny the appeal. (Henderson/Mosbrucker: 3-2; Gruber, Murphy dissenting)

G. 251 Castro St.

AT090107

The landlord's petition for a determination pursuant to Rules §1.21 was granted because it was found that the subject unit was not the tenants' principal place of residence. The tenants' appeal was accepted and remanded to ascertain

whether the landlord changed the terms of the tenancy by accepting the tenants' stated, planned, periodic absences. In the remand decision, the ALJ upheld his previous decision. The tenants appeal the remand decision, maintaining that: the landlord failed to meet his burden of proving that the tenants' principal place of residence is in Palm Springs, or at some location other than the San Francisco unit; the landlord waived his right to a 1.21 increase by acceding to the tenants' temporary absence through his agent; the ALJ committed legal error by relying upon the "no waiver" provision in the tenants' lease; the landlord changed the terms of the tenancy by conduct; and the decision presents extreme hardship as it will render the tenants homeless.

MSC: To deny the appeal. (Murphy/Gruber: 5-0)

H. 60 Parkridge Dr. #10

AL090115

The tenant filed a petition requesting a determination of his lawful base rent. The Administrative Law Judge (ALJ) denied the petition because he found that the landlord's accounting of water and garbage service costs did not constitute a demand for payment and was therefore not a rent increase. The tenant's appeal was accepted and remanded for a determination as to the legality of the water and garbage charges. In the remand decision, the ALJ found that landlord-provided water and garbage are housing services represented to the tenant as free of charge at the inception of the tenancy and any attempt by the landlord to collect for such services constitutes an unlawful rent increase. The landlord's appeal of the remand decision was accepted and remanded on the issue of whether the oral agreement legally can amend the terms of the written agreement, with instructions to pay attention to the Statute of Frauds. In the second remand decision, the ALJ found that the oral agreement violates the Statute of Frauds but that the landlord is estopped from asserting the Statute because he induced the tenant to sign the lease. On further appeal, the landlord argues that: oral discussions between the parties prior to entering into the written agreement do not equal an oral agreement; any oral agreement would have been extinguished by novation; the doctrine of estoppel cannot invalidate the terms of the written rental agreement and all of the elements of estoppel have not been met; the tenant did not prove that he was fraudulently induced to enter into the lease; and this matter is outside of the Rent Board's jurisdiction.

MSC: To recuse Commissioner Crow from consideration of this appeal.
(Murphy/Mosbrucker: 5-0)

MSC: To deny the appeal on the basis that the provisions for payment of the water and garbage charges in the lease are void as violations of State and local law. (Mosbrucker/Murphy: 5-0)

I. 2442 Great Highway

AL090114

The tenant's petition alleging unlawful rent increases and decreased housing services was granted, in part, and the landlord was found liable to the tenant in the amount of \$3,600.00 for rent overpayments and \$225.00 due to habitability defects on the premises. The landlord appeals, claiming that: the tenant moved out, owing him money after having damaged the property; the tenant lied on her rental application and should not be considered credible; a temporary rent reduction was given to the tenant due to her financial circumstances; the landlord replaced the water heater as expeditiously as possible; and the tenant failed to meet her burden of proof regarding the living room heater.

MSC: To recuse Commissioner Crow from consideration of this appeal.
(Mosbrucker/Murphy: 5-0)

MSC: To deny the appeal. (Mosbrucker/Henderson: 5-0)

VI. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

A. The office workload statistics for the month of March, 2009.

B. Articles from the S.F. Daily Journal, BeyondChron, and the S.F. Chronicle.

VII. Director's Report

Executive Director Wolf invited the Commissioners to a party to celebrate the 30th anniversary of the Rent Ordinance at the Rent Board office on June 9th from noon to 3:00 p.m.

VIII. Old Business

A. Petitions for Extension of Time To Do Capital Improvement Work
(Rules and Regulations §12.15)

Discussion of this issue was continued to a future meeting.

B. Restoration of Original Rental Amount After Voluntary Reduction
By Landlord

The Board discussed a proposal by Commissioner Murphy that would allow a landlord to give a tenant a temporary rent reduction, upon the tenant's request, and provide that restoration of the prior rent amount upon 60 days notice would not constitute a rent increase. The tenant would have had to pay at least six months rent to the landlord to ensure that this was not a "teaser rate" at the inception of a tenancy. Commissioner Murphy explained that the landlord community would like the Rent Board's policy to allow such temporary, voluntary rent reductions in cases of financial hardship to be codified in writing, and said that landlords would lower rents more often if they could restore the original rental amount later. Commissioner Mosbrucker commented that it is not clear that this proposed language applies only to hardship situations, and the Commissioners then discussed whether it should also apply to reduced rents due to market conditions. Commissioner Henderson proposed that there be a form that landlords and tenants fill out to prevent misunderstandings later. Commissioner Mosbrucker volunteered to confer with the other Tenant Commissioners and draft additional language for discussion at the next Board meeting.

IV. Remarks from the Public (cont.)

D. Landlord Dorothy Kitt asked about the issue of voluntary rent reductions, since many of her tenants have been asking that their rent be reduced. Ms. Kitt was concerned that, in light of rent control, she would be "stuck with the new rent forever" and wondered whether she could restore the prior rent if the economy improved.

E. Andy Braden, representing the landlord in the case at 240 Cumberland (AL090110), told the Board that the utility passthrough regulations don't address the issue of "double-dipping," but when user fees collected from a laundry facility are the same from year to year, it doesn't matter. Mr. Braden said that the new owner has information regarding the amount of fees collected, which could be extrapolated; or, the property manager could swear from his own experience that the conditions have remained unchanged. Mr. Braden said that the landlord is now "stuck," and can't obtain approval for a utility passthrough for the next five years, unless a petition for approval of a different base year is granted. Mr. Braden expressed his frustration that "justice could have been done" because he believes the regulations are inappropriate in this case.

IX. Calendar Items

May 19th & 26th, June 2nd, 9th & 16, 2009 – NO MEETINGS

June 16, 2009

10 appeal considerations (1 cont. from 4/21/09; 1 cont. from 5/12/09)

Old Business:

- A. Voluntary Rent Reductions
- B. Petitions for Extension of Time

X. Adjournment

President Gruber adjourned the meeting at 7:50 p.m.

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City and County of San Francisco



DAVID GRUBER
PRESIDENT

BROOKS BEARD
DAVE CROW
DEBORAH HENDERSON
JIM HURLEY
ANTHONY JUSTMAN
POLLY MARSHALL
CATHY MOSBRUCKER
NEVEO MOSSER
BARTHOLOMEW MURPHY

NOTICE OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,

Residential Rent Stabilization
and Arbitration Board

GAVIN NEWSOM
MAYOR

DELENE WOLF
EXECUTIVE DIRECTOR

Tuesday, 6:00 p.m.,
June 16, 2009

25 Van Ness Avenue, #70, Lower Level

AGENDA

06-12-09P12:16 RCVD

GOVERNMENT
DOCUMENTS DEPT

JUN 12 2009

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- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals

A. 345 Fulton #52 AT090128 & -29

One tenant appeals the decision approving utility passthroughs.

B. 242 - 5th Ave. #5 AT090117
(cont. from 5/12/09)

The tenants appeal the decision granting a rent increase based on comparable rents on the grounds of financial hardship.

C. 155 Jackson St. #1002 AT090124

The tenants appeal the decision certifying capital improvement costs.

D. 161 Powell #406 AT090098
(cont. from 4/21/09)

The tenant appeals the decision denying a claim of decreased housing services.

E. 787 Valencia AL090123



The landlord appeals the decision granting a claim of unlawful rent increase.

F. 250 Taylor #603

AL090120

The landlord appeals the decision granting a claim of unlawful rent increase.

G. 1253 – 17th Ave. #4

AL090122

The landlord appeals the decision determining that no rent increase is warranted under Costa-Hawkins because the tenant still permanently resides in the subject unit.

H. 1110 So. Van Ness, Unit No. 2

AL090121

The landlord appeals the decision determining that no rent increase is warranted pursuant to Rules §1.21 because there is a “Tenant in Occupancy” in the unit.

I. 119 Valdez Ave.

AL090125

The landlord appeals the decision granting claims of decreased housing services.

J. 502 Clement #2 & #3

AL090126 & -27

The landlord appeals the decision granting the decreased housing services claims of the tenants in two units.

VI. Communications

VII. Director's Report

VIII. Old Business

A. Restoration of Original Rental Amount After Voluntary Reduction
By Landlord

B. Petitions for Extension of Time To Do Capital Improvement Work
(Rules and Regulations §12.15)

IV. Remarks from the Public (cont.)

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

- IX. New Business
- X. Calendar Items
- XI. Adjournment

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Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

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DAVID GRUBER
PRESIDENT

**MINUTES OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,**

GAVIN NEWSOM
MAYOR

DELENE WOLF
EXECUTIVE DIRECTOR

Tuesday, June 16, 2009 at 6:00 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

BROOKS BEARD
DAVE CROW
DEBORAH HENDERSON
JIM HURLEY
ANTHONY JUSTMAN
POLLY MARSHALL
CATHY MOSBRUCKER
NEVEO MOSSER
BARTHOLOMEW MURPHY

Call to Order

President Gruber called the meeting to order at 6:05 p.m.

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II. Roll Call

Commissioners Present: Beard; Crow; Gruber; Henderson; Hurley;
Mosbrucker.

Commissioners not Present: Justman; Mosser; Murphy.

Staff Present: Lee; Wolf.

Commissioner Marshall appeared on the record at 6:07 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of May 12, 2009.
(Hurley/Henderson: 5-0)

IV. Consideration of Appeals

A. 345 Fulton #52

AT090128 & -29

The landlord's petition for approval of utility passthroughs for 5 of 29 units was granted. The tenant in one unit appeals the decision on the grounds of financial hardship and the assertion that, since he receives a Section 8 voucher, he should not be subject to the passthrough.

MSC: To accept the appeals and remand the case to the
Administrative Law Judge for a determination that this tenancy
is not subject to the utility passthrough provisions of the Rent
Ordinance. (Marshall/Mosbrucker: 5-0)



B. 242 – 5th Ave. #5

AT090117
(cont. from 5/12/09)

The landlord's petition for a rent increase based on the rent for comparable units was granted. The tenants in the unit appealed the decision on the grounds of financial hardship. The appeal was continued from the meeting on May 12th in order for staff to contact the parties and explore possible settlement.

MSC: To deny the appeal. (Hurley/Mosbrucker: 5-0)

C. 155 Jackson #1002

AT090124

The tenants' appeal of a decision certifying capital improvement costs was filed almost six years late because the tenants' financial circumstances have recently changed substantially for the worse.

MSC: To find no good cause for the late filing of the appeal; the Decision is therefore final. (Gruber/Hurley: 3-2; Mosbrucker, Beard dissenting)

D. 161 Powell #406

AT090098
(cont. from 4/21/09)

The tenant's petition alleging a substantial decrease in housing services due to the reconfiguration of the lounge area in this residential hotel was denied. The tenant appealed, maintaining that: the changes to the lounge area have made it so that the tenants cannot use and enjoy the lounge; the facts presented at the hearing do not support the conclusions reached by the ALJ; the relocation of the television to the laundry room denies the tenants use of the television; the tenants are suffering a non-economic hardship related to their general health and well-being by having lost the opportunity for social interaction and a feeling of community; and the landlord presented no compelling reason for the changes that were made. This appeal was continued from the meeting on April 21st in order for staff to contact the parties and explore possible settlement.

MSC: To accept the appeal and remand the case to enter the settlement reached by the parties as the disposition in the case. (Marshall/Hurley: 5-0)

E. 787 Valencia St.

AL090123

The tenant's petition alleging an unlawful rent increase was granted because the ALJ found that the tenant still permanently resides in the subject unit. On appeal,

the landlord claims that the ALJ was unfair, that the landlord's testimony was not considered in the decision, and the tenant is not living in the unit.

MSC: To deny the appeal. (Marshall/Mosbrucker: 5-0)

F. 250 Taylor #603

AL090120

The tenant's petition alleging unlawful rent increases was granted and the landlord was found liable to the tenant in the amount of \$7,594.63 for rent overpayments and \$348.73 for improper utility passthrough payments. On appeal, the landlord alleges that the tenant lied about when he moved in to the subject unit, and that the rent overpayment calculations are therefore in error.

MSC: To deny the appeal. (Marshall/Mosbrucker: 4-1;
Hurley dissenting)

G. 1253 – 17th Ave. #4

AL090122

The tenant's petition alleging an unlawful rent increase was granted because the ALJ found that no increase is warranted pursuant to Costa-Hawkins since the tenant still permanently resides in the subject unit. The landlord appeals, asserting that: the ALJ erred in finding the tenant's absence from the unit temporary, since his family has resided in Tiburon for the last five years; the ALJ improperly evaluated evidence to the detriment of the landlord; and the ALJ allowed the tenant to submit additional evidence without an opportunity for cross-examination by the landlord.

MSC: To deny the appeal. (Marshall/Mosbrucker: 4-1;
Gruber dissenting)

H. 1110 So. Van Ness, Unit No. 2

AL090121

The landlord's appeal was filed slightly over three weeks late because the landlord did not receive a copy of the decision in the mail.

MSC: To find good cause for the late filing of the appeal.
(Marshall/Gruber: 5-0)

The landlord's petition seeking a determination pursuant to Rules §1.21 was denied because the ALJ found that the original tenant's sister is a tenant in occupancy of the subject unit. On appeal, the landlord maintains that the tenant's stepsister is residing in the unit illegally, without his consent, and that the original tenants have abandoned the unit.

MSC: To accept the appeal and remand the case to allow the landlord to file an amended petition within 30 days adding a Costa-Hawkins claim as the basis for relief. (Gruber/Hurley: 5-0)

I. 119 Valdez Ave.

AL090125

The landlord's appeal was filed 23 days late. However, the landlord claims that the appeal was mailed on April 15th and was due on April 18th.

MSC: To find good cause for the late filing of the appeal.
(Hurley/Gruber: 4-1; Mosbrucker dissenting)

The tenants' petition alleging decreased housing services was granted, in part, and the landlord was found liable to the tenants in the amount of \$6,331.50. On appeal, the landlord claims that: the window was replaced within 45 days of the Notice of Violation; the rent reduction for the roof should only be from February until November 2007; the tenant's photographic exhibits are false and the tenant failed to notify the landlord regarding the problems in the unit; the water heater was replaced in June rather than July; the tenants damaged the unit; the caption incorrectly lists another individual as an owner of the property; and he missed the hearing due to his son's medical emergency.

MSC: To accept the appeal and remand the case for a new hearing.
(Gruber/Marshall: 5-0)

J. 502 Clement #2 & #3

AL090126 & -27

Two tenant petitions alleging decreased housing services were granted, in part, and the tenants were granted rent reductions in the amount of \$50.00 per month due to the presence of rats in the common areas of the building. The landlord appeals, alleging that: it was nesting birds, not rats, that were making the noises the tenants complained of; no rats were ever seen by the tenants; the tenant in unit #3 failed to prove long-term verifiable notice to the landlord of the problem; the ALJ erred in calculating the dates for the rent reduction; and the landlord should not be held responsible for a City-wide rodent problem stemming from near-by commercial enterprises.

MSC: To recuse Commissioner Crow from consideration of this appeal.
(Crow/Marshall: 5-0)

MSC: To deny the appeal except to remand the case for a necessary Technical Correction. (Marshall/Gruber: 5-0)

V. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

A. Several articles from the S.F. Apartment Magazine, BeyondChron, the S.F. Examiner, NBC Bay Area, and the S.F. Chronicle.

B. The office workload statistics for the month of April 2009.

C. A current copy of the Rent Ordinance and updated List of Rent Ordinance Amendments.

VI. Director's Report

Executive Director Wolf and Senior Administrative Law Judge Tim Lee reported as follows:

A. The Rent Ordinance was amended on February 20, 2009; the amendments went into effect on March 22, 2009. Section 37.2(v) was added to provide a series of definitions regarding "Victims of Domestic Violence, Sexual Assault or Stalking." Sections 37.9(a)(3.1) and (3.2) were added to provide confidentiality protections and a defense to nuisance evictions under Section 37.9(a)(3) for victims of domestic violence, sexual assault or stalking.

B. On May 19, 2009, the Superior Court upheld all of Proposition M with two exceptions. First, the Court concluded that the phrase "with ulterior motive or without honest intent" is unconstitutionally vague and is severed, but the phrase "in bad faith" is lawful and enforceable. Second, the Court concluded that the attorneys' fees provision in Section 37.10B©(6) violates the Equal Protection Clause. The Court rejected petitioners' other legal arguments. The rest of Proposition M is now enforceable and the Rent Board will accept and process all tenant petitions with Prop. M decreased housing service claims. A separate lawsuit challenging Proposition M is still pending in federal court, and the Court's ruling in the state court lawsuit may also be appealed.

C. Attorney James Millar phoned to report that, despite language in Rules §6.15C specifying that a violation of the section shall not constitute a basis for eviction, he has been involved in several recent cases where rent overcharges by a Master Tenant have been the basis for eviction actions. Senior ALJ Lee will contact Mr. Millar to obtain additional information and report back to the Board.

D. The Rent Board had a party celebrating the 30th anniversary of rent control in San Francisco. Party favors were distributed to those Commissioners who were unable to attend.

VII. Old Business

A. Restoration of Original Rental Amount After Voluntary Reduction
By Landlord

Commissioner Mosbrucker distributed an alternative to Commissioner Murphy's proposed language at the beginning of the meeting. Discussion of this issue was continued to the next meeting in order for the Commissioners to have time to review the new draft.

B. Petitions for Extension of Time To Do Capital Improvement Work
(Rules and Regulations §12.15)

This issue was continued to the meeting on August 4th when Commissioner Murphy will have returned.

VIII. Remarks from the Public

A. Paul Franza, an employee of landlord Robert Imhoff, remarked on the case concerning 250 Taylor #603. Mr. Franza told the Board that the landlord presented all the evidence, and that the tenant is "manipulating the system." Mr. Franza inquired as to the landlord's recourse.

B. Tenant Richard Riedel of 787 Valencia (AL090123) said that he has lived in the subject unit for over 20 years. Mr. Riedel told the Board that the landlord raised his rent after he was laid off from his job at New College of the Law, and he is now living on Social Security.

C. Landlord Themis Drolapas of 787 Valencia said that the tenant isn't living in the unit any more, nor are his sons, and that the tenant lives with his family in a house they purchased. Mr. Drolapas told the Board that the tenant didn't respond to a 3-Day Notice for 10 days, and asked the landlord for money to move out. The landlord said that he paid an attorney \$1,500 for nothing, and he doesn't know what additional evidence he could provide.

IX. Calendar Items

June 23rd and 30th, 2009 – NO MEETINGS

July 7, 2009

11 appeal considerations

Old Business: Voluntary Rent Reductions

X. Adjournment

President Gruber adjourned the meeting at 7:20 p.m.

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City and County of San Francisco



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BARTHOLOMEW MURPHY

I.

II.

III.

IV.

V.

Call to Order

Roll Call

Approval of the Minutes

Remarks from the Public

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

Consideration of Appeals

A. 805 Bush #418

AT090149

The tenants in one unit appeal the decision certifying capital improvement costs on the grounds of financial hardship.

B. 640 Mason #303, 405 & 602

AT090155;
AT090157 & -58

The tenants in three units appeal the decision certifying capital improvement costs on the grounds of financial hardship.

C. 935 Geary #701

AT090159

The tenant in one unit appeals the decision certifying capital improvement costs on the grounds of financial hardship.

D. 839 Leavenworth

AT090132 thru -47 &
AT090154

Residential Rent Stabilization
and Arbitration Board

NOTICE OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,

GAVIN NEWSOM
MAYOR

DELENE WOLF
EXECUTIVE DIRECTOR

Tuesday, 6:00 p.m.,
July 7, 2009

25 Van Ness Avenue, #70, Lower Level

AGENDA

06-29-09A11:17 PCVD

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JUN 29 2009

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The tenants in twelve units appeal the decision granting rent increases based on increased operating expenses on substantive grounds; five tenants also appeal on the basis of financial hardship.

E. 321 Chesnut #5 AT090131

One tenant appeals the decision certifying capital improvement costs.

F. 1200 Taylor #30 AL090130

The landlord appeals the decision partially granting claims of decreased housing services.

G. 201 – 11th Ave. #9 AL090148

The landlord appeals the remand decision denying the passthrough of certain capital improvement costs due to the 6-Month Rule.

H. 360 – 6th Ave. #5 AL090150

The landlord appeals the decision granting a claim of decreased housing services.

I. 680 Brazil Ave. #1 & #4 AL090153

The landlords appeal the decision granting claims of decreased housing services

J. 344 – 2nd Ave. #2 AL090152

The landlords appeal the decision granting a claim of unlawful rent increases.

K. 1251 – 10th Ave. #5 AT090156

The tenant appeals the decision denying claims of decreased housing services.

- VI. Communications
- VII. Director's Report
- VIII. Old Business

Restoration of Original Rental Amount After Voluntary Reduction
By Landlord

IV. Remarks from the Public (cont.)

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

IX. New Business

X. Calendar Items

XI. Adjournment

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**MINUTES OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,**

GAVIN NEWSOM
MAYOR

DELENE WOLF
EXECUTIVE DIRECTOR

DAVID GRUBER
PRESIDENT

Tuesday, July 7, 2009 at 6:00 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

BROOKS BEARD
DAVE CROW
DEBORAH HENDERSON
JIM HURLEY
ANTHONY JUSTMAN
POLLY MARSHALL
CAHY MOSBRUCKER
NEVEO MOSSE
BARTHOLOMEW MURPHY

Call to Order

President Gruber called the meeting to order at 6:05 p.m.

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II. Roll Call

Commissioners Present: Beard; Crow; Gruber; Henderson; Hurley;
Marshall; Mosbrucker, Mosser.
Commissioners not Present: Justman; Murphy.
Staff Present: Lee; Wolf.

III. Approval of the Minutes

MSC: To approve the Minutes of June 16, 2009.
(Mosbrucker/Hurley: 5-0)

IV. Remarks from the Public

A. Mark Velasquez of 1251 – 10th Avenue (AT090156) asked whether the Decision in his case was final, and how the Board arrives at their decisions.

B. Mr. Shakoori, the landlord at 1200 Taylor (AL090130), told the Board that the tenant didn't meet his burden of proof. Mr. Shakoori said that a professional inspection showed that the stove worked, and that the Decision is in conflict with a prior Board Decision regarding a unit across the hall from the subject unit.

C. Attorney Paul Hogarth, representing the tenants at 839 Leavenworth (AT090132 thru -47 & -54), told the Board that all of the tenants in the building are equally affected by the Decision and asked that any modifications apply to all tenants. Mr. Hogarth maintained that tenants have to meet their burden of proof when they come before the Rent Board, but that the landlord in this case was not required to do so.



D. Tenant Ray Hartz of 1139 Leavenworth told the Board that there has been a significant decline in the quality of maintenance of the building over time. Mr. Hartz said that the landlord doesn't clean the walls or carpets. Mr. Hartz believes that rent increases are appropriate, but that they need to be fair.

E. An 1139 Leavenworth Street tenant named Yvonne said that her rent increase was issued in June, but she wasn't required to pay it because she had filed a timely appeal. Still, the landlord demanded payment.

F. A young woman spoke on behalf of her father, Mr. Tu, the landlord at 344 – 2nd Avenue. She said that all of the tenants in the building agreed to share the costs of water and garbage, but this is not allowed under the rent law.

G. The property manager at 1251 – 10th Avenue asked what lengths she must go to in order to appease the tenant, as she feels that unreasonable tenants can “manipulate the system.”

V. Consideration of Appeals

A. 805 Bush #418

AT090149

The landlord's petition for certification of capital improvement costs was granted. The tenants in one unit appeal the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenants' claim of financial hardship. (Mosbrucker/Hurley: 5-0)

B. 640 Mason #303, 405 & 602

AT090155, -57 & -58

The landlord's petition for certification of capital improvement costs to 34 of 53 units was granted. Three tenants appeal the decision on the grounds of financial hardship.

MSC: To accept the appeals of the tenants in unit numbers 303, 405 and 602 and remand the cases for hearings on the tenants' claims of financial hardship. (Mosbrucker/Marshall: 5-0)

C. 935 Geary #701

AT090159

The landlord's petition for certification of capital improvement costs to 46 of 115 units was granted. The tenant in one unit appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Mosbrucker/Marshall: 5-0)

D. 839 Leavenworth

AT090132 – thru -47 &
AT090154

The appeal of the tenant in unit number 206 was filed three weeks late because the tenant was ill at the time the decision was issued.

MSC: To find good cause for the late filing of the appeal.
(Marshall/Mosbrucker: 5-0)

The landlords' petition for 7% base rent increases to 29 of 50 units based on increased operating expenses was granted. The tenants in 5 units appeal the decision on the grounds of financial hardship. The tenants in 12 units jointly appeal the decision on the following grounds: the landlords failed to meet their burden of proof in that the petition was incomplete in four areas, which could have affected the outcome; the tenants should not have to pay for the debt service on the landlord's interest-only loan, which could turn out to have been risky or imprudent; and the outstanding Notice of Violation should have nullified the petitioned-for rent increases. The tenants ask that any decision modified on substantive grounds should apply to all affected tenants in the building, and not just the tenant appellants.

MSC: To accept the joint appeal filed by the tenants in twelve units and remand the case for a supplemental hearing on the following issues: to consider the categories of elevator service and pest control that were not included in the original petition; to examine the terms of the interest-only loan; and to consider whether the landlord has met their burden of proof in not providing the aggregate of all expenses associated with the building. The appeal is denied as to the Notice of Violation issue. The hardship appeals will be held pending the outcome of the remand on the substantive issues. (Marshall/Mosbrucker: 5-0)

E. 321 Chestnut #5

AT090131

The landlords' petition for certification of capital improvement costs was granted resulting in monthly passthroughs in the amount of \$42.64 for the tenants in 3 of 5 units. The tenant in one unit appeals on the grounds that: the water heater was an appliance, rather than a fixture, and the tenants should not have to pay for its replacement; and the water heater, drywall replacement and new shingles do not meet the definition of capital improvement but, rather, constitute repair and maintenance.

MSC: To deny the appeal. (Hurley/Gruber: 5-0)

F. 1200 Taylor #30

AL090130

The tenant's petition alleging decreased housing services was granted, in part, and the landlords were found liable to the tenant in the amount of \$700.00 due to a defective kitchen stove and \$1,286.52 due to construction work in the building that made it impossible for the tenant to use the bedroom in his unit. The landlord appeals, asserting that: the tenant offered no evidence to support his contention that the stove was defective and the bedroom was uninhabitable, other than his own testimony; the Administrative Law Judge (ALJ) disregarded the landlord's evidence and otherwise exhibited bias against the landlord; the ALJ should have been bound by a prior Rent Board decision regarding an adjoining unit affected by the same construction which found that the claim was barred by the Golden Gateway decision; there was no risk to the bedroom after a two-week period, and the tenant was so informed; the tenant could have used other areas of the unit; the tenant had agreed to replace the stove at his own expense; the landlord had no opportunity to cross-examine the tenant regarding his post-hearing submission; the tenant lacked standing to file the petition; the tenant's filing of the petition was retaliatory; and the rent reduction for the stove is excessive.

MSC: To recuse Commissioner Crow from consideration of this appeal.
(Hurley/Mosbrucker: 5-0)

MSC: To deny the appeal. (Marshall/Mosbrucker: 5-0)

G. 201 – 11th Ave. #9

AL090148

The landlord's petition for certification of capital improvement costs was granted, in part. The landlord appealed as to the passthrough to the tenants in unit #9, questioning the applicability of the 6-Month Rule and whether this was a new or continuing tenancy. In the Decision on Remand, the ALJ found that when the tenants moved from unit #2 to unit #9 in the building at a new rent, a new tenancy was created. Since the capital improvement work commenced within six months, the costs were disallowed. The landlord appeals the remand decision, arguing that: the capital improvement work was done entirely in the common areas of the building, which is not recovered by the landlord in setting a market rent; and the tenants did not object to paying for the work.

MSC: To deny the appeal. (Mosbrucker/Hurley: 5-0)

H. 360 – 6th Ave. #5

AL090150

The tenants' petition alleging decreased housing services was granted and the landlord was found liable to the tenants in the amount of \$130.00 due to inadequate heat in the unit for a 1-1/3 month period. The landlord appeals, maintaining that: the 2 degree variation from the required standard for heat was due to the tenants' having open windows and fans in the unit; the tenants failed to verifiably prove their claims; no other tenants in the building have complained; the landlord should not be penalized for equipment malfunctions when problems were otherwise dealt with in a timely manner; and the time clock was replaced purely as a preventative measure.

MSC: To deny the appeal. (Marshall/Mosbrucker: 5-0)

I. 680 Brazil Ave. #1 & #4

AL090153

The tenants in two units filed petitions alleging decreased housing services which were granted, in part. The landlords were found liable to the tenants in both units for a loss of quiet enjoyment due to noisy tenants in another unit in the building and a defective entry door. The landlords appeal the decision, asserting that: the rent reductions for quiet enjoyment are excessive, since the problem was not that serious nor were the noise decibels measured, and the landlords made a good faith effort to have the front door maintained.

MSC: To deny the appeal. (Mosbrucker/Marshall: 5-0)

J. 344 – 2nd Ave. #2

AL090152

The landlords' appeal was filed two days late because the landlords did not receive a copy of the decision in the mail.

MSC: To find good cause for the late filing of the appeal.
(Mosbrucker/Marshall: 5-0)

The tenants' petition alleging unlawful rent increases was granted and the landlords were found liable to the tenants in the amount of \$2,664.21. On appeal, the landlords claim that they only increased the rent by the allowable annual amount and that any improper rent increases were given by the previous owner.

MSC: To deny the appeal without prejudice to any claim the current owners may have against the prior owner of the property.
(Mosbrucker/Marshall: 5-0)

K. 1251 – 10th Ave. #5

AT090156

The tenant's petition alleging decreased housing services was denied because the ALJ found that the allegedly defective items were either not substantial, the tenant failed to provide notice of the problem or the landlord responded in a timely fashion to the tenant's repair requests. On appeal, the tenant claims that the carpet needs to be replaced rather than cleaned and the unit should be painted by a professional painting contractor.

MSC: To deny the appeal. (Hurley/Mosbrucker: 5-0)

VI. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

A. A new staff roster.

B. The office workload statistics for the month of May, 2009.

C. Articles from the Bay Area Reporter, BeyondChron, the S.F. Chronicle, the S.F. Daily Journal, the S.F. Appeal and the Los Angeles Times.

VII. Director's Report

Executive Director Wolf told the Board that the proposed amendments to the Rent Ordinance sponsored by Supervisor Daly were passed by the Board of Supervisors at their meeting on June 23rd. It is anticipated that the Mayor will veto the legislation and that there are not enough votes to over-ride a mayoral veto. Ms. Wolf also informed the Commissioners that Attorney Amelia Yaros has been appointed to the Alternate Neutral seat; Commissioner Beard has been elevated to the Voting Neutral position that was held by Commissioner Justman. It is hoped that Commissioner Yaros will be sworn in in time for her to attend the August 4th Board meeting.

VIII. Old Business

Restoration of Original Rental Amount After Voluntary Reduction
By Landlord

Discussion of this issue was continued to the next meeting, when Commissioner Murphy will have returned.

IX. Calendar Items

July 14th, 21st and 28th, 2009 – NO MEETINGS

August 4, 2009

12 appeal considerations

Old Business:

- A. Voluntary Rent Reductions
- B. Petitions for Extension of Time

X. Adjournment

President Gruber adjourned the meeting at 7:20 p.m.

NOTE: If any materials related to an item on this agenda have been distributed to the Commission after distribution of the agenda packet, those materials are available for public inspection at the office of the Rent Board during normal office hours.



**NOTICE OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,**

GAVIN NEWSOM
MAYOR

DAVID GRUBER
PRESIDENT

Tuesday, 6:00 p.m.,
August 4, 2009

DELENE WOLF
EXECUTIVE DIRECTOR

25 Van Ness Avenue, #70, Lower Level

AGENDA

BROOKS BEARD
DAVE CROW
DEBORAH HENDERSON
JIM HURLEY
ANTHONY JUSTMAN
POLLY MARSHALL
CATHY MOSBRUCKER
NEVEO MOSSER
BARTHOLOMEW MURPHY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public

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NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

- V. Consideration of Appeals

A. 387 Ellis #208 AT090175

The tenant appeals the dismissal of a petition claiming decreased housing services due to lack of jurisdiction.

B. 1008 Larkin, 406B AT090177 & -78

The tenant appeals the dismissal of two petitions alleging decreased housing services due to her failure to appear at the hearing.

C. 2201 Van Ness Ave. #403 AT090176

The tenant appeals the dismissal of a petition claiming decreased housing services due to lack of jurisdiction

D. 640 Mason #706 AT090174 & AT090184

The tenant appeals decisions certifying capital improvement costs and granting utility passthroughs on the grounds of financial hardship.



E. 427 Stockton #709

AT090160

One tenant appeals the decision certifying capital improvement costs on the grounds of financial hardship.

F. 1036 Polk #501

AT090163

One tenant untimely appeals the decision certifying capital improvement costs on the grounds of financial hardship.

G. 1562 Fulton St.

AT090164

The tenant appeals the dismissal of her petition alleging unlawful rent increase and decreased housing services due to her failure to appear at the hearing.

H. 1115 Taylor #4

AL090162

The Master Tenant appeals the decision granting a claim of rent overpayments pursuant to Rules §6.15C(3).

I. 1185 Pine St. #22

AT090167 & -68

The tenant appeals the remand decisions denying his hardship appeals of a capital improvement passthrough and rent increase based on increased operating expenses.

J. 833 Lombard #A

AL090165 & AT090173

The landlord and tenants appeal the decision granting a claim of decreased housing services and determining rent overpayments but finding the tenant's claim of failure to repair moot.

K. 151 – 26th Ave.

AL090161

The landlord appeals the decision determining that the unit is the tenant's principal place of residence pursuant to Rules §1.21.

L. 201 Divisadero

AT090179

The tenant appeals the remand decision denying his claim of financial hardship.

VI. Communications

VII. Director's Report

VIII. Old Business

A. Petitions for Extension of Time To Do Capital Improvement Work
(Rules and Regulations §12.15)

B. Restoration of Original Rental Amount After Voluntary Reduction
By Landlord

IV. Remarks from the Public (cont.)

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

IX. New Business

Proposed Amendment to Rules §6.16(g)(iii)

X. Calendar Items

XI. Adjournment

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Timothy Lee has been designated to coordinate this agency's compliance with the nondiscrimination requirements of Title II of the Americans with Disabilities Act (ADA). Information concerning the provisions of the ADA, and the rights provided under the Act, are available from the ADA Coordinator. The Rent Board TTY number is 554-9845.

Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the Ordinance, contact the Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlet Place, Room 244, San Francisco, CA 94102 at 554-7724.



**MINUTES OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,**

GAVIN NEWSOM
MAYOR

DELENE WOLF
EXECUTIVE DIRECTOR

DAVID GRUBER
PRESIDENT

Tuesday, August 4, 2009 at 6:00 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

BROOKS BEARD
DAVE CROW
DEBORAH HENDERSON
JIM HURLEY
ANTHONY JUSTMAN
POLLY MARSHALL
CATHY MOSBRUCKER
NEVEO MOSSER
BARTHOLOMEW MURPHY

Call to Order

President Gruber called the meeting to order at 6:05 p.m.

II. Roll Call

Commissioners Present: Beard; Crow; Gruber; Henderson; Hurley;
Mosser; Yaros.
Commissioners not Present: Marshall; Mosbrucker; Murphy.
Staff Present: Lee; Wolf.

III. Approval of the Minutes

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MSC: To approve the Minutes of July 7, 2009.
(Hurley/Gruber: 5-0)

SEP - 4 2009

IV. Remarks from the Public

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A. Tenant Ross Wilkinson told the Board that Commissioner Henderson's Form 700 Statement of Economic Interests says that she's a landlord and not a tenant. Mr. Wilkinson said that, if no explanation is provided, he would go to the City Attorney. He also noted that the page of the Board's Statement of Incompatible Activities dedicated to particular activities is left blank. Mr. Wilkinson believes that it should say that landlords and tenants cannot be representatives for the other side. He also told the Board that the Charter requires that the Minutes record how each member votes.

B. Tenant Robert Dupire-Nelson of 151- 26th Ave. (AL090161) said that the subject unit has been his children's homes since they were born, and that a combination of job and health reasons necessitated the family's spending time in Hawaii. The family spends as much time in San Francisco as possible, and the Administrative Law Judge (ALJ) has twice confirmed that Mr. Dupire-Nelson



works in San Francisco. Currently, they are moving to reunite the family in San Francisco.

C. Attorney Andrew Zachs, representing the landlord at 151- 26th Ave., told the Board that the tenant's wife and children principally reside in Hawaii. Mr. Zachs reminded the Board that the tenant was ordered to provide tax records, but only fully redacted returns were provided. Additionally, the tenant failed to appear at the remand hearing, so the landlord was deprived of the ability to cross-examine the tenant. Mr. Zachs said that this is not a fair way to adjudicate cases and demonstrates the tenant's contempt for the Board.

D. Attorney Robert De Vries, representing the tenant at 151 – 26th Ave., said that the airline records show that the tenant spends the majority of his time in San Francisco, and there is no dispute that he works here. His wife and children spend the majority of their time in Hawaii, but also spend time in San Francisco. Mr. De Vries said that tax returns were provided, but they are privileged documents. Mr. De Vries maintained that the tenants never lived at the Clay Street property, which was an investment and not a residence.

E. Tenant Carl Hathwell of 201 Divisadero (AT090179) asked whether he could repeat the gist of his appeal, which was that the ALJ did not consider his medical expenses in denying his hardship claim.

F. Landlord Wilbur Tom of 151 – 26th Ave. told the Board that an IRS tax lien shows that the tenant's address is on Clay Street.

G. One of the tenants at 833 Lombard #A (AT090173) told the Board that there was one huge room when they moved in to the unit that the landlord promised she would make into two rooms. However, the partition wall wasn't built all the way to the ceiling. Although the landlord said she would take care of it, she is now alleging that the wall was built two years before the tenants moved in.

V. Consideration of Appeals

A. 387 Ellis #208

AT090175

The tenant's petition alleging decreased housing services was dismissed because the Rent Board does not have jurisdiction over this property as the rents are regulated by the Department of Human Services. The tenant appeals, claiming that the building is not exempt.

MSC: To deny the appeal. (Crow/Hurley: 5-0)

B. 1008 Larkin, 406B

AT090177 & -78

The tenant's appeals were filed three weeks late because the tenant did not receive copies of the decisions in the mail.

MSC: To find good cause for the late filing of the appeals.
(Gruber/Henderson: 5-0)

The tenant's petitions alleging decreased housing services were dismissed due to the tenant's failure to appear for the hearing until over an hour after the scheduled start time. On appeal, the tenant asks that she be granted another hearing or that the dismissals be changed to without prejudice so that she can pursue her claims in Small Claims Court.

MSC: To accept the appeals and remand the cases to the
Administrative Law Judge to change the decisions to Dismissals
Without Prejudice. (Gruber/Crow: 4-1; Beard dissenting)

C. 2201 Van Ness Ave. #403

AT090176

The tenant's petition alleging decreased housing services was denied because the ALJ found that the tenant had not stayed in the tourist hotel room for 32 consecutive days and the Rent Board therefore has no jurisdiction over this matter. The tenant appeals, claiming that she stayed at the hotel for 57 days but the landlord falsified records and lied under oath; and her due process rights were violated because the ALJ would not hear the merits of her case.

MSC: To deny the appeal. (Gruber/Hurley: 5-0)

D. 640 Mason #706

AT090174 & -84

The tenant appeals decisions certifying capital improvement costs and granting utility passthroughs on the grounds of financial hardship.

MSC: To accept the appeals and remand the cases for a hearing on
the tenant's claims of financial hardship.
(Henderson/Crow: 5-0)

E. 427 Stockton #709

AT090160

The landlord's petition for certification of capital improvement costs was granted. One tenant appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Henderson/Crow: 5-0)

F. 1036 Polk #501

AT090163

The tenant's hardship appeal was filed over six years late because the tenant's financial circumstances have changed due to a disability.

MSC: To find good cause for the late filing of the appeal.
(Henderson/Crow: 4-1; Gruber dissenting)

The landlord's petition for certification of a seismic strengthening project was granted. One tenant appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Henderson/Crow: 5-0)

G. 1562 Fulton St.

AT090164

The tenant's appeal was filed three days late because she did not receive a copy of the Dismissal in the mail.

MSC: To find good cause for the late filing of the appeal.
(Gruber/Henderson: 5-0)

The tenant's petition alleging decreased housing services and unlawful rent increase was dismissed due to her failure to appear at the properly noticed hearing. On appeal, the tenant claims not to have received notice of the hearing, and attaches the requisite Declaration of Non-Receipt of Notice of Hearing.

MSC: To accept the appeal and remand the case for a new hearing.
(Hurley/Gruber: 5-0)

H. 1115 Taylor #4

AL090162

The subtenant's petition alleging that he paid a disproportional share of the rent pursuant to Rules §6.15C(3) was granted and the Master Tenant was found liable to the subtenant in the amount of \$10,800.00. On appeal, the Master Tenant alleges that he was unaware of the requirement that the amount of rent paid must be proportional; that the decision will present him with a financial hardship; and that the subtenant is going to be evicted due to his uncooperative behavior.

MSC: To deny the appeal on substantive grounds but remand the case for a hearing on the Master Tenant's claim of financial hardship. (Gruber/Crow: 5-0)

I. 1185 Pine St. #22

AT090167 & -68

The tenant's hardship appeals of decisions granting a rent increase based on increased operating expenses and a capital improvement passthrough were denied on remand because the ALJ found that the tenant had failed to document the income he receives as a taxi cab driver. On further appeal, the tenant claims that: he was not asked to provide additional documentation of his income, which he is happy to provide; he should be entitled to deduct familial expenses which he incurs; and his income-to-rent ratio is within the Board's guidelines, regardless of what he spends his money on.

MSC: To deny the appeals. (Gruber/Hurley: 5-0)

J. 833 Lombard #A

AL090165 & AT090173

The tenants' petition alleging deceased housing services and the landlord's failure to repair was granted, in part. The landlord was found liable to the tenants in the amount of \$4,350.00 due to the landlord's failure to build a partition wall that would create two separate bedrooms, as promised prior to the inception of the tenancy. The landlord was also found liable in the amount of \$660.16 due to rent overpayments. The failure to repair claim was determined to be moot since the noticed rent increase was null and void. The landlord and the tenants appeal the decision. The landlord claims that the wall was built before the tenants moved in; that whether the wall was built with permits or was full or partial should have no bearing on whether it constituted a housing service; and the tenants' petition resulted from personality conflicts and the issuance of a rent increase. In their appeal, the tenants request a greater rent reduction for the wall and claim that there is still mold and mildew on the premises, which constitutes a code violation.

MSC: To deny both the landlord's and tenants' appeals. (Crow/Hurley: 5-0)

K. 151 – 26th Ave.

AL090161

The landlord's petition seeking a determination pursuant to Rules Sections 1.21 and 6.14 was denied because the ALJ found that one of the tenants still resides in the unit as his principal place of residence. On appeal by the landlord, the case was remanded to allow the tenant to produce tax returns from relevant time periods and to delete a Costa-Hawkins determination from the decision. The landlord now appeals the remand decision, which arrived at the same

conclusions, on the grounds that: the tenant did not comply with the remand order, since the tax returns submitted were useless without the ability to cross-examine the tenant, who failed to appear at the remand hearing; the tenant has not voted in San Francisco since 2001, despite testimony to the contrary at the original hearing; and spouses cannot have different principal places of residence.

MSC: To accept the appeal and remand the case to the Administrative Law Judge for a supplemental hearing in order for the tenant to provide information as to the tax consequences of the sale of the Clay Street property with the accompanying tax schedules, including Schedule E, and to allow the landlord to cross-examine the tenant. (Beard/Gruber: 3-2; Crow, Henderson dissenting)

L. 201 Divisadero

AT090179

The tenant's hardship appeal of a utility passthrough was denied on remand because the tenant's income-to-rent ratio including the passthrough was only 28.67%. On appeal, the tenant claims that the Decision does not take his yearly medical expenses into account.

MSC: To deny the appeal. (Hurley/Gruber: 5-0)

VI. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

A. A copy of the decision in the case of Palmer v. City of Los Angeles (Los Angeles County Superior Court No. BS107637), which found that Los Angeles' Inclusionary Housing Ordinance violates Costa-Hawkins.

B. Articles from the S.F. Examiner, BeyondChron, SFAppeal and the Mayor's Office of Communications.

C. A Pending Litigation Status Report from Senior ALJ Tim Lee.

D. The office workload statistics for the month of June, 2009.

E. New Staff and Commissioner Rosters.

VII. Director's Report

Executive Director Wolf informed the Board as follows:

A. The rental unit fee will remain at \$29.00.

B. The plaintiff petitioners, including the S.F. Apartment Association, have filed an appeal of the court's decision in Larson v. CCSF (Superior Court Case No. 509083). The City has filed a cross-appeal of that part of the decision striking the unilateral attorney fees provision of Section 37.10B©(6).

VIII. Old Business

Discussion of the issues of Voluntary Rent Reductions and Petitions for Extension of Time to do Capital Improvement Work were continued to a future meeting.

IX. New Business

Proposed Amendment to Rules and Regulations Section 6.16(g)(iii)

Under the Rules and Regulations, a tenant can file a Tenant Hardship Application (as opposed to a hardship *appeal*) in two circumstances: after receipt of notice of a Water Revenue Bond Passthrough and/or a Utility Passthrough Worksheet. While Rules §4.14(l) regarding water revenue bond passthroughs specifically provides for a stay of the passthrough pending hearing and appeal, Rules §6.16(g)(iii) is silent on these issues. Senior ALJ Sandy Gartzman suggested that the Board might wish to amend §6.16 to provide that the filing of a Hardship Application stays payment of the utility passthrough similar to hardship applications for water revenue bond passthroughs as follows (new language underlined):

(g) Petition Not Required for Certain Utility Passthroughs

(iii) A tenant who receives a utility passthrough under this subsection (g) may file a hardship application with the Board within one year of the effective date of the passthrough, and may be granted relief from all or part of such passthrough based on hardship. Payment of the utility passthrough set forth in the hardship application shall be stayed until a decision is made by the Administrative Law Judge after a hearing on the tenant's hardship application. Appeals of decisions on a tenant's hardship application shall be governed by Ordinance Section 37.8(f).

MSC: To adopt the proposed amendment to Rules and Regulations Section 6.16(g)(iii). (Beard/Henderson: 5-0)

X. Calendar Items

August 11th, 18th, 25th and September 1st – NO MEETINGS

September 8, 2009

12 appeal considerations

Old Business:

A. Voluntary Rent Reductions

B. Petitions for Extension of Time

XI. Adjournment

President Gruber adjourned the meeting at 7:40 p.m.

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City and County of San Francisco

Residential Rent Stabilization
and Arbitration Board



NOTICE OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,

GAVIN NEWSOM
MAYOR

DAVID GRUBER
PRESIDENT

Tuesday, 6:00 p.m.,
September 8, 2009

DELENE WOLF
EXECUTIVE DIRECTOR

25 Van Ness Avenue, #70, Lower Level

BROOKS BEARD
DAVE CROW
DEBORAH HENDERSON
JIM HURLEY
ANTHONY JUSTMAN
POLLY MARSHALL
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AGENDA

09-04-09 2:45 PM

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public

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- V. Consideration of Appeals

A. 640 Mason #303 AT090183

The tenant appeals the decision granting utility passthroughs on the grounds of financial hardship.

B. 750 Gonzalez Dr. 4L AT090196 thru -99

The tenant appeals two decisions granting utility passthroughs and two decisions certifying capital improvement costs on the grounds of financial hardship.

C. 55 - 30th St. #10 AT090189

The tenant appeals the dismissal of a petition alleging decreased housing services due to her failure to appear at the hearing.

D. 1695 Beach #102 AT090194 & -95

The tenant appeals the decisions approving utility passthroughs and granting rent increases based on increased operating expenses on the grounds of financial hardship.



E. 2989 – 22nd St.

AT090191

The tenant appeals the determination that a rent increase is warranted pursuant to Costa-Hawkins, claiming non-receipt of notice of hearing.

F. 1474 Sacramento #410

AT090186

One tenant appeals the decision granting rent increases due to increased operating expenses.

G. 301 Cardenas Ave.

AT090180

The tenant appeals the decision partially granting claims of decreased housing services and determining the proper base rent.

H. 273 – 29th St. #A

AL090181

The landlord appeals the determination that the subject unit is the tenant's principal place of residence pursuant to Rules §1.21.

I. 1440 Sacramento #3

AT090182

The tenant appeals the denial of a petition alleging decreased housing services and the landlord's failure to repair.

J. 469 A Church St.

AL090188

The landlord appeals the decision granting a claim of decreased housing services.

K. 230 Castro #3

AT090187

The tenant appeals the decision approving utility passthroughs.

L. 818-A Green St.

AL090190

The landlord appeals the decision granting claims of decreased housing services.

VI. Communications

VII. Director's Report

VIII. Old Business

- A. Restoration of Original Rental Amount After Voluntary Reduction By Landlord
- B. Petitions for Extension of Time To Do Capital Improvement Work (Rules and Regulations §12.15)

IV. Remarks from the Public (cont.)

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Timothy Lee has been designated to coordinate this agency's compliance with the nondiscrimination requirements of Title II of the Americans with Disabilities Act (ADA). Information concerning the provisions of the ADA, and the rights provided under the Act, are available from the ADA Coordinator. The Rent Board TTY number is 554-9845.

Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the Ordinance, contact the Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlet Place, Room 244, San Francisco, CA 94102 at 554-7724.



DAVID GRUBER
PRESIDENT

**MINUTES OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,**

GAVIN NEWSOM
MAYOR

DELENE WOLF
EXECUTIVE DIRECTOR

Tuesday, September 8, 2009 at 6:00 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

BROOKS BEARD
DAVE CROW
DEBORAH HENDERSON
JIM HURLEY
ANTHONY JUSTMAN
POLLY MARSHALL
CATHY MOSBRUCKER
NEVEO MOSSER
BARTHOLOMEW MURPHY

Call to Order

President Gruber called the meeting to order at 6:05 p.m.

GOVERNMENT
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SEP 18 2009

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PUBLIC LIBRARY

II. Roll Call

Commissioners Present: Beard; Crow; Gruber; Henderson;
Mosbrucker; Mosser; Yaros.
Commissioners not Present: Hurley.
Staff Present: Gartzman; Lee; Wolf.

Commissioner Marshall appeared on the record at 6:08 p.m.;
Commissioner Murphy arrived at the meeting at 6:16 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of August 4, 2009.
(Crow/Henderson: 5-0)

IV. Remarks from the Public

A. Stanley Anastasio, the landlord in the case at 273 – 29th St. (AL090181), told the Board that he thought that Molly Smart was the only tenant on the premises when he bought the building, and that he returned a rent check tendered by Ann Smart. Mr. Anastasio does not believe it is fair that he is being told he should have relied on the Estoppel Certificate when it wasn't filled out truthfully. Mr. Anastasio said that none of the four individuals listed on the Estoppel really lived at the property. Rather, there was a Homeowner's Exemption on another property and several Deeds of Trust. Mr. Anastasio said that, in light of the evidence, the decision should be reversed and Costa-Hawkins should prevail.



B. Tenant Ann Smart of 273 – 29th St. told the Board that she has lived in the subject unit since 1978; her family has been there for 31 years. She asked that the Commissioners over-rule the appeal.

C. Ann Smart's daughter, Jasmine, said that sleeping on a futon doesn't mean you don't live somewhere, and that it all comes down to subjective opinions.

V. Consideration of Appeals

A. 640 Mason #303

AT090183

The landlord's petition for approval of utility passthroughs for 6 of 53 units was approved, resulting in a monthly passthrough in the amount of \$23.38. One tenant appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand this case to the Administrative Law Judge to consolidate it with the other pending hardship appeal filed by this tenant. (Mosbrucker/Murphy: 5-0)

B. 750 Gonzalez Dr. 4L

AT090196 thru -99

The tenant's appeal of two decisions approving utility passthroughs and one decision certifying capital improvement costs were filed six months, one year and seven years late, respectively. The tenant's brother used to live with her but passed away, and the tenant is now having difficulty paying the rent.

MSC: To find good cause for the late filing of the appeals.
(Marshall/Mosbrucker: 3-2; Gruber, Murphy dissenting)

The landlord's two petitions for approval of utility passthroughs and two petitions for certification of capital improvement costs were granted. One tenant appeals the four decisions on the grounds of financial hardship.

MSC: To accept the appeals and remand the cases for a hearing on the tenant's claims of financial hardship. (Marshall/Mosbrucker: 5-0)

C. 55 – 30th St. #10

AT090189

The tenant's petition alleging decreased housing services was dismissed due to her failure to appear at the properly noticed hearing. On appeal, the tenant claims not to have received the Notice of Hearing and attaches the requisite Declaration of Non-Receipt of Notice of Hearing.

MSC: To accept the appeal and remand the case for a new hearing.
(Mosbrucker/Marshall: 5-0)

D. 1695 Beach #102

AT090194 & -95

The landlord's petitions for rent increases based on increased operating expenses and approval of utility passthroughs were granted. One tenant appeals the decisions on the grounds of financial hardship.

MSC: To accept the appeals and remand the cases for a hearing on the tenant's claims of financial hardship.
(Mosbrucker/Marshall: 5-0)

E. 2989 – 22nd St.

AT090191

The landlord's petition seeking a determination as to whether there is currently a "Tenant in Occupancy" in the subject unit was granted and the ALJ found that a rent increase is warranted pursuant to Costa-Hawkins. The tenant failed to appear at the properly noticed hearing. On appeal, the tenant claims not to have received the Notice of Hearing, and attaches the requisite Declaration of Non-Receipt of Notice of Hearing.

MSC: To accept the appeal and remand the case for a new hearing.
(Marshall/Mosbrucker: 5-0)

F. 1474 Sacramento #410

AT090186

The landlord's petition for rent increases to 16 units based on increased operating expenses was granted. The tenants in unit #410 appeal the decision on the grounds that: the landlord selected comparison years in order to create exaggerated results; the repayment of general obligation bonds was not considered in the calculation of the increase in the landlord's property taxes; the ALJ did not do an analysis under the "anti-spec" clause (Rules §6.10(f)); and the landlord should provide a breakdown of the increases in debt service and what the funds were used for.

MSC: To deny the appeal. (Murphy/Gruber: 5-0)

G. 273 – 29th St. #A

AL090181

The landlord's petition seeking a rent increase pursuant to Rules Sections 1.21 or 6.14 or Costa Hawkins was denied because the ALJ found that the subject unit was the tenant's principal place of residence at the time the petition was filed. On appeal, the landlord argues that: the appellee's mother was the last original

tenant and the appellee was a subtenant; the other occupants of the unit, including the appellee, were merely visitors; and the tenancy was assigned to the appellee's mother upon her payment of the rent.

MSC: To deny the appeal. (Mosbrucker/Marshall: 3-2; Gruber, Murphy dissenting)

H. 1440 Sacramento #3

AT090182

The tenant's petition alleging decreased housing services and the landlord's failure to repair was denied. The tenant appeals the decision, claiming that: the repairs made by the landlord are not comparable to the original condition of the unit and constitute a substantial reduction in housing services; the landlord discriminates against her and employs incompetent repair people who do shoddy work; and the ALJ failed to give sufficient weight to the evidence that she provided.

MSC: To deny the appeal. (Murphy/Gruber: 4-1; Mosbrucker dissenting)

I. 469 A Church St.

AL090188

The tenants' petition alleging decreased housing services was granted and the landlord was found liable to the tenants in the amount of \$200 per month due to lack of heat and \$175.00 per month due to floor damage and mold. The landlord appeals, asserting that he didn't receive notice of the lack of heat until the Notice of Violation was issued on April 23, 2009.

MSC: To accept the appeal and remand the case to the Administrative Law Judge to vacate the decision and allow the tenant to withdraw the petition pursuant to the settlement agreement of the parties. (Gruber/Murphy: 5-0)

J. 230 Castro #3

AT090187

The landlord's petition for approval of utility passthroughs for 2 of 6 units was granted, resulting in a monthly passthrough in the amount of \$26.28. The tenant in one unit appeals on the grounds that: he should not have to pay for utility costs incurred prior to the inception of his tenancy; he did not have an opportunity to respond to a submission by the landlord; a hearing should have been granted in this case; the increased costs were caused in large part by the landlord's failure to repair and maintain the boiler; the Rules and Regulations pertaining to utility passthroughs contravene the Ordinance and do not always produce a fair result; and the landlord knew the cost of utilities when he set the base rent.

MSC: To accept the appeal and remand the case to the Administrative Law Judge with instructions to cut the passthrough in half because the tenant did not reside on the premises for the entire comparison year, pursuant to Rules and Regulations Section 2.18. (Mosbrucker/Gruber: 5-0)

K. 818-A Green St.

AL090190

The tenant's petition alleging decreased housing services was granted and the landlord was found liable to the tenant in the amount of \$2,530.25 due to habitability problems on the premises. On appeal, the landlord claims that: the ALJ ignored the statement of the landlord's handyman; the tenant's negligence contributed to the problems; and the severity of the problems was exaggerated by the tenant and the ALJ.

MSC: To deny the appeal. (Marshall/Murphy: 5-0)

VI. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

A. The office workload statistics for the month of July and corrected statistics for the month of June.

B. Articles from BeyondChron, the New York Times, the Sacramento Bee, the California Housing Law Project's website, and the Federal Reserve's Division of Consumer and Community Affairs' website.

C. An updated copy of the Rules and Regulations.

VII. Old Business

A. Petitions for Extension of Time To Do Capital Improvement Work (Rules and Regulations §12.15)

The Board continued their discussion of proposed changes to Rules Sections 12.15(e) and 12.16 regarding extensions of time to do capital improvement work. The proposed changes were as follows:

1. An amendment to Regulation 12.16(a) to establish a time frame for tenants to reoccupy the unit after completion of capital improvement work similar to the time frame currently in place for reoccupancy after displacement by a natural disaster in Regulation 12.19.

2. An amendment to Regulation 12.16(b) that would require landlords to pay to displaced tenants the rent differential between the rent for the unit where work is being done and a tenant's replacement unit whenever the tenant is out of possession for more than 3 months, whether the landlord's petition for extension of time is granted or denied.

3. An amendment to Regulation 12.15(e)(3) to provide that a landlord's failure to obtain all necessary permits before filing a petition for extension of time is not grounds for denying the petition if the landlord obtained all necessary permits before the hearing on the petition and before serving the notice to quit on the tenant.

Regarding the proposed change to Section 12.16(b), Commissioner Murphy reported that the landlord community feels that with the recent increase in relocation expenses, it would be unfair for landlords to have to pay more. However, there was a consensus among the Commissioners that having a timeline for reoccupancy after completion of the work would benefit both landlords and tenants. Therefore, the Board voted as follows:

MSC: To adopt the proposed change to Rules and Regulations Section 12.16(a) effective November 1, 2009 but not to adopt the proposed changes to Rules and Regulations Sections 12.16(b) and 12.15(e)(3). (Murphy/Mosbrucker: 5-0)

The adopted language is as follows:

Section 12.16 Reoccupancy Following Evictions Under Section 37.9(a)(11)
(new language underlined)

(a) Where a tenant has vacated a unit to allow a landlord to carry out capital improvements or rehabilitation work, pursuant to Section 37.9(a)(11) of the Ordinance, the landlord shall advise the tenant, in writing, immediately on completion of the improvements, and shall allow the tenant to reoccupy the unit as soon as the improvements or rehabilitation work is completed, and shall not increase the rent for such reoccupancy by more than the limitations set forth in Section 4 above. The tenant shall have 30 days from receipt of the landlord's offer of reoccupancy to notify the landlord of acceptance or rejection of the offer and, if accepted, shall reoccupy the unit within 45 days of receipt of the landlord's offer.

B. Restoration of Original Rental Amount After Voluntary Reduction
By Landlord

The Board continued their discussion of proposals put forward by Landlord Commissioner Murphy and Tenant Commissioner Mosbrucker regarding restoration of the original rent after voluntary rent reductions. It was ultimately decided to continue with the Board's current policy, which is that where a rent reduction is given by the landlord due to the financial hardship of the tenant or some other non-market-related reason, the restoration of the prior rental amount upon 60 days notice shall not constitute a rent increase. However, rent reductions given as the result of market conditions become permanent.

VIII. Calendar Items

September 15, 2009 – NO MEETING

September 22, 2009

8 appeal considerations

IX. Adjournment

President Gruber adjourned the meeting at 7:40 p.m.

NOTE: If any materials related to an item on this agenda have been distributed to the Commission after distribution of the agenda packet, those materials are available for public inspection at the office of the Rent Board during normal office hours.

City and County of San Francisco



DAVID GRUBER
PRESIDENT

BROOKS BEARD
DAVE CROW
DEBORAH HENDERSON
JIM HURLEY
ANTHONY JUSTMAN I.
POLLY MARSHALL
CATHY MOSBRUCKER
NEVEO MOSSER II.
BARTHOLOMEW MURPHY

III. Approval of the Minutes

IV. Remarks from the Public

V. Consideration of Appeals

A. 825 Pine #12

AT090206 & -07

The tenant appeals two decisions approving utility passthroughs and granting rent increases based on increased operating expenses on the grounds of financial hardship.

B. 795 Geary #404

AT090204

The tenant appeals the decision approving utility passthroughs on the grounds of financial hardship.

C. 3718 – 24th St.

AT090202 & -03

The tenant appeals the remand decision granting her claim of financial hardship and therefore finding her substantive appeal moot.

D. 1407 – 39th Ave.

AL090200

The landlord appeals the decision determining rent overpayments on the grounds of financial hardship.

Residential Rent Stabilization
and Arbitration Board

NOTICE OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,

GAVIN NEWSOM
MAYOR

DELENE WOLF
EXECUTIVE DIRECTOR

Tuesday, 6:00 p.m.,
September 22, 2009
25 Van Ness Avenue, #70, Lower Level

AGENDA

Call to Order

Roll Call

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NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.



E. 1434 Hyde St.

AT090192

The tenant appeals the decision finding a commercial tenancy and denying his claim of unlawful rent increases.

F. 545 Holloway Ave.

AL090193

The landlord appeals the decision granting a claim of unlawful rent increases on the grounds that the Rent Board does not have jurisdiction because the property is being used as a group home for foster children.

G. 166 Highland Ave., Upper Level

AL090201

The landlord appeals the decision granting a claim of decreased housing services because of the landlord's refusal to allow a replacement roommate and determining that a Costa-Hawkins rent increase is invalid.

H. 2175 Grove St.

AT090205

The tenants appeal the decision certifying capital improvement costs.

VI. Communications

VII. Director's Report

VIII. Old Business

IV. Remarks from the Public (cont.)

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

IX. New Business

X. Calendar Items

XI. Adjournment

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美國手語翻譯服務，聲量增強器或其他信息安排，但必須在會議舉行七十二小時之前提出申請。申請電話號碼是 252-4603。

Se pueden obtener servicios de traducción, ampliación de sonida, u otras formas de presentación si se solicitan por lo menos 72 horas antes de la reunión. Llame al 252-4603 para hacer su solicitud.

In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City to accommodate these individuals.

Rent Board Commission meetings are held at 25 Van Ness Avenue, Suite 70, lower level, and are wheelchair accessible. The closest accessible BART station is located at Civic Center. All MUNI Metro lines at Van Ness and Market Street are accessible. For other accessible MUNI lines serving this location and information about MUNI accessible services, call 923-6142.

There is accessible parking available on adjacent streets (Oak Street and Hickory). Metered street parking is also available.

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DAVID GRUBER
PRESIDENT

**MINUTES OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,**

GAVIN NEWSOM
MAYOR

DELENE WOLF
EXECUTIVE DIRECTOR

Tuesday, September 22, 2009 at 6:00 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

BROOKS BEARD
DAVE CROW
DEBORAH HENDERSON
JIM HURLEY
ANTHONY JUSTMAN
POLLY MARSHALL
CAITHY MOSBRUCKER
NEVEO MOSSER
BARTHOLOMEW MURPHY

Call to Order

President Gruber called the meeting to order at 6:05 p.m.

GOVERNMENT
DOCUMENTS DEPT

OCT 16 2009

SAN FRANCISCO
PUBLIC LIBRARY

II. Roll Call

Commissioners Present: Beard; Crow; Gruber; Henderson; Hurley;
Mosbrucker; Yaros.

Commissioners not Present: Marshall; Mosser; Murphy.

Staff Present: Lee; Wolf.

III. Approval of the Minutes

MSC: To approve the Minutes of September 8, 2009.
(Henderson/Mosbrucker: 5-0)

IV. Remarks from the Public

A. Craig Martin, Attorney for the landlord in the case at 545 Holloway (AL090193), said that the question in the case is not whether this is a group home and therefore protected under the rent law. The landlord's concern is that she does not believe that the tenant lives at the property, but is running a business out of the building.

B. Tenant Anastasia Yovanopoulos of 3718- 24th St. (AT090202 & -03) told the Board that it was found that the owner of her building was not declaring the income from the laundry facilities but it was not mentioned in the decision because her hardship claim mooted this issue. Ms. Yovanopoulos said that the other tenants in the building should have access to the figures.

C. Landlord Vera Chappelle of 545 Holloway said that her name is misspelled in the caption to the decision, in that there should be an "e" at the end of her last name.



V. Consideration of Appeals

A. 825 Pine #12

AT090206 & -07

The landlord's petitions for approval of utility passthroughs and rent increases based on increased operating expenses were granted. The tenant in one unit appeals the decisions on the grounds of financial hardship.

MSC: To accept the appeals and remand the cases for a hearing on the tenant's claims of financial hardship.
(Henderson/Hurley: 5-0)

B. 795 Geary #404

AT090204

The tenant's appeal was filed almost five months late because the tenant did not receive a copy of the decision approving the passthrough, and did not realize it had been approved until receiving a notice of rent increase from her landlord.

MSC: To find good cause for the late filing of the appeal.
(Mosbrucker/Henderson: 5-0)

The landlord's petition for approval of utility passthroughs for 23 of 48 units was granted. One tenant appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Mosbrucker/Hurley: 5-0)

C. 3718 – 24th St.

AT090202 & -03

The landlord's petition for approval a utility passthrough in the amount of \$13.32 was granted. The tenant's substantive and hardship appeals of the passthrough were remanded and the ALJ found sufficient hardship to warrant a permanent deferral of the passthrough which rendered the tenant's substantive appeal moot. The tenant appeals the remand decision, asking that annual and banked rent increases imposed by the landlord also be deferred and requesting a determination on her substantive appeal.

MSC: To deny both appeals. (Hurley/Gruber: 5-0)

D. 1407 – 39th Ave.

AL090200

The tenants' petition seeking a determination of the proper base rent was granted and the landlord was found liable to the tenants in the amount of \$\$2,835.00 due

to rent overpayments. Additionally, a decrease in services claim was granted and the landlord was found liable for any amounts that the tenants paid for water services that had previously been provided by the landlord. On appeal, the landlord claims that his parents, who own the property, are experiencing financial hardship because the rent does not cover the expenses for the property.

MSC: To accept the appeal and remand the case for a hearing on the landlord's claim of financial hardship. (Hurley/Gruber: 5-0)

E. 1434 Hyde St.

AT090192

The tenant's petition alleging unlawful rent increases was denied because the ALJ found that the tenant failed to establish the date the tenancy commenced for his residential unit, that his renting of another unit in the building constitutes a commercial tenancy and a \$50.00 rent increase for the garage was warranted because the tenant was given full use of the garage. On appeal, the tenant argues that both of the units are residential tenancies that are covered by the Rent Ordinance, and the garage increase was in excess of limitations.

MSC: To deny the appeal without prejudice to the tenant re-filing in the future should additional evidence become available.
(Gruber/Hurley: 4-1; Mosbrucker dissenting)

F. 545 Holloway Ave.

AL090193

The tenant's petition alleging unlawful rent increases was granted and the landlord was found liable to the tenant in the amount of \$13,798.82. The landlord appeals, arguing that: the unit is not subject to the jurisdiction of the Rent Ordinance because it is a group home for foster children; the tenant does not reside at the premises; there are errors in the Decision; and the California Health and Safety Code does not override the fact that the tenant is running a business while seeking the protections of the Rent Ordinance.

MSC: To deny the appeal. (Mosbrucker/Henderson: 5-0)

G. 166 Highland Ave., Upper Level

AL090201

The tenant's petition alleging decreased housing services due to the landlord's unreasonable withholding of the right to replace two departing roommates was granted and the landlord was found liable to the tenant in the amount of \$4,886.92. Additionally, a Costa-Hawkins rent increase from \$1,832.60 to \$2,550.00 was found not to be warranted as the petitioner was determined to be a tenant and not a subtenant. The landlord appeals, claiming that: the Rules and Regulations are in conflict with the Costa Hawkins Rental Housing Act; since

the landlord has a statutory right to withhold consent to sublease or assignment of the premises, there was no decrease in housing services; the petitioner is not an original occupant of the unit nor a sublessee who moved in prior to January 1, 1996; the ALJ improperly determined the base rent, which was not before her; the noticed rent increase was authorized by Costa-Hawkins; the landlord's prior attorney erroneously named the petitioner as an original tenant, which should not affect his status as a subsequent subtenant; the ALJ exhibited bias against the landlord; the petitioner did not have a direct landlord-tenant relationship with the landlord's deceased husband, nor with the landlord; and rent reductions were ordered during a period of time when the landlord did not accept rent from the tenant.

MSC: To deny the appeal except to remand the case to the Administrative Law Judge for a necessary Technical Correction to the decision. (Henderson/Mosbrucker: 5-0)

H. 2175 Grove St.

AT090205

The landlord's petition for certification of capital improvement costs to one of two units was granted, in part, resulting in a passthrough in the amount of \$38.72. The tenants appeal, asserting that: the work was in the nature of repair, rather than capital improvement, and resulted from the landlord's deferred maintenance; and the notice of rent increase was defective.

MSC: To deny the appeal. (Gruber/Hurley: 4-1; Mosbrucker dissenting)

VI. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

A. A Confidential Memorandum from the Office of the City Attorney regarding the status of litigation challenging Proposition M, which bans tenant harassment by landlords in rent controlled housing.

B. Articles from the New York Times, S.F. Examiner, and the S.F. Chronicle.

C. The Annual Statistical Report for Fiscal Year 2008-09.

VII. Director's Report

Executive Director Wolf told the Commissioners that Senate Bill 290 (Leno), which makes permanent the 60-day notice requirement for a no-fault eviction, has been approved by the Senate and Assembly and is now on the Governor's desk. Ms. Wolf also told them that California Government Code Section 12950.1 requires that they and supervisory staff at the agency complete harassment prevention training by December 31, 2009.

IV. Remarks from the Public (cont.)

D. The landlord in the case at 2175 Grove (AT090205) said that the typo on the rent increase notice pertained to the bond measure passthrough. Since the tenants have been paying it, they were obviously on notice of the amount and shouldn't be able to disclaim it now.

VIII. Calendar Items

September 29th, October 6th and 13th – NO MEETINGS

October 20, 2009

10 appeal considerations

IX. Adjournment

President Gruber adjourned the meeting at 7:20 p.m.

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**NOTICE OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,**

GAVIN NEWSOM
MAYOR

DAVID GRUBER
PRESIDENT

Tuesday, 6:00 p.m.,
October 20, 2009

DELENE WOLF
EXECUTIVE DIRECTOR

25 Van Ness Avenue, #70, Lower Level

BROOKS BEARD
DAVE CROW
DEBORAH HENDERSON
JIM HURLEY
ANTHONY JUSTMAN I.
POLLY MARSHALL
CATHY MOSBRUCKER
NEVEO MOSSER II.
BARTHOLOMEW MURPHY

AGENDA

GOVERNMENT
DOCUMENTS DEPT

OCT 16 2009

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PUBLIC LIBRARY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

- V. Consideration of Appeals

A. 1900 Vallejo #405 AT090219

One tenant appeals the decision certifying capital improvement costs on the grounds of financial hardship.

B. 640 Mason #303 AT090218 & -20

The tenant appeals the remand decisions denying hardship deferrals of capital improvement and utility passthroughs.

C. 465 Ellis #312 AT090213

The tenant appeals the dismissal of his petition alleging decreased housing services and unlawful rent increase due to his late appearance for the hearing.

D. 929 Broderick #5 AT090211 & -12

The tenant appeals the decision determining that his base rent is a lawful amount.



E. 10 Sharon St.

AL090209

The landlord appeals the decision granting claims of decreased housing services and failure to repair.

F. 2172 – 15th St. #2

AL090208

The landlord appeals the decision granting a claim of unlawful rent increases and failure to discontinue a capital improvement passthrough.

G. 1360 Jones #902

AT090210

The tenants appeal the decision finding that the subject unit is not their principal place of residence pursuant to Rules §1.21.

H. 85-1/2 Richland Ave.

AT090214

The tenant appeals the decision determining the proper base rent for the unit.

I. 2021 California #303

AL090215

The landlord appeals the decision granting a claim of decreased housing services.

J. 81 Minerva St.

AL090216 & -17

The landlord appeals the decision granting claims of unlawful rent increase and decreased housing services.

VI. Communications

VII. Director's Report

VIII. Old Business

IV. Remarks from the Public (cont.)

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

IX. New Business

X. Calendar Items

XI. Adjournment

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Policy of Nondiscrimination on the Basis of Disability and Equal Employment Opportunity Statement

The Rent Board does not discriminate on the basis of disability in employment or in the admission and access to its programs or activities.

Timothy Lee has been designated to coordinate this agency's compliance with the nondiscrimination requirements of Title II of the Americans with Disabilities Act (ADA). Information concerning the provisions of the ADA, and the rights provided under the Act, are available from the ADA Coordinator. The Rent Board TTY number is 554-9845.

Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the Ordinance, contact the Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco, CA 94102 at 554-7724

City and County of San Francisco



DAVID GRUBER
PRESIDENT

BROOKS BEARD
DAVE CROW
DEBORAH HENDERSON
JIM HURLEY
ANTHONY JUSTMAN
POLLY MARSHALL
CAITHY MOSBRUCKER
NEVEO MOSSER
BARTHOLOMEW MURPHY

Residential Rent Stabilization
and Arbitration Board

MINUTES OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,

Tuesday, October 20, 2009 at 6:00 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

GAVIN NEWSOM
MAYOR

DELENE WOLF
EXECUTIVE DIRECTOR

GOVERNMENT
DOCUMENTS DEPT

NOV 13 2009

SAN FRANCISCO
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Call to Order

President Gruber called the meeting to order at 6:05 p.m.

II. Roll Call

Commissioners Present: Gruber; Henderson; Hurley; Mosbrucker;
Mosser; Yaros.
Commissioners not Present: Beard; Crow; Marshall; Murphy.
Staff Present: Lee; Wolf.

III. Approval of the Minutes

MSC: To approve the Minutes of September 22, 2009.
(Mosbrucker/Hurley: 5-0)

IV. Remarks from the Public

Dave Wasserman, Attorney for the landlord at 1360 Jones #902 (AT090210), told the Board that the landlord has received a Notice to Vacate from the tenants and they are in the process of moving out of the unit.

V. Consideration of Appeals

A. 1900 Vallejo #405

AT090219

The landlord's petition seeking certification of capital improvement costs to 14 of 30 units was granted, resulting in a monthly passthrough in the amount of \$33.13. One tenant appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship.
(Henderson/Mosbrucker: 5-0)



B. 640 Mason #303

AT090218 & -20

The tenant's hardship appeals of decisions granting utility and capital improvement passthroughs were accepted and remanded for hearing. In the Decision on Remand, the Administrative Law Judge (ALJ) denied the appeals, finding insufficient hardship to warrant deferral of the passthroughs. On further appeal, the tenant asks that the Board remand the case to the ALJ in order to make the settlement agreement of the parties the decision in the case.

MSC: To accept the appeals and remand the cases to the Administrative Law Judge for a hearing pursuant to the alleged settlement agreement of the parties. (Mosbrucker/Hurley: 5-0)

C. 465 Ellis #312

AT090213

The tenant's petition alleging decreased housing services and unlawful rent increase was dismissed because he arrived for the properly noticed hearing forty minutes late. On appeal, the tenant maintains that he misunderstood and thought that the hearing would commence at 3:00 p.m. rather than 2:00 p.m.

MSC: To accept the appeal and remand the case for a new hearing; should the tenant again fail to appear, absent extraordinary circumstances, no further hearings will be scheduled. (Henderson/Mosbrucker: 5-0)

D. 929 Broderick #5

AT090211 & -12

The tenant filed a petition requesting a determination of the proper base rent and an appeal of a decision granting rent increases based on operating expenses, claiming that the base rent used for calculation of the increase was unlawful. The Administrative Law Judge found that the tenant failed to prove any wrongful rent increases. On appeal, the tenant claims that a rent increase in 1982 came only ten months after the prior rent increase and was therefore null and void.

MSC: To deny the appeal. (Hurley/Gruber: 5-0)

E. 10 Sharon St.

AL090209

The tenant's petition alleging decreased housing services and the landlord's failure to repair and seeking a determination as to the lawful base rent was granted, in part. The landlord was found liable to the tenant in the amount of \$4,440.00 due to the faulty condition of windows in the unit, which also warranted deferral of an annual rent increase. However, the rent was determined to be lawful because a \$100 increase for the right to have a roommate was negotiated

prior to the inception of the tenancy. The landlord appeals, arguing that: the decision is in error regarding attempts that were made to alleviate the problem; there is no justification for the \$300 monthly rent reduction for the windows; the tenant failed to prove that the condition of the windows declined during the tenancy and therefore, there was no reduction in services; and the rent reduction was granted for months when the weather is not cold or damp in San Francisco.

MSC: To recuse Commissioner Henderson from consideration of this appeal. (Mosbrucker/Gruber: 5-0)

MSC: To deny the appeal. (Mosbrucker/Hurley: 4-0)

F. 2172 – 15th St. #2

AL090208

The tenant's petition alleging unlawful rent increases and failure to discontinue a capital improvement passthrough was granted and the landlord was found liable to the tenant in the amount of \$1,722.73. On appeal, the landlord argues that the Administrative Law Judge's calculations are incorrect.

MSC: To deny the appeal. (Mosbrucker/Henderson: 5-0)

G. 1360 Jones #902

AT090210

The landlord's petition seeking a determination pursuant to Rules §1.21 was granted as the Administrative Law Judge found that the subject unit was the tenants' vacation home, rather than their principal place of residence. On appeal, the tenants argue that: all of their personal possessions are kept in the unit; the unit is the place to which they normally return exclusive of the extensive travel necessitated by their employment; when away from the subject unit, the tenants stay in temporary housing; and the Decision does not comport with the standards set out in Rules §1.21 and should be overturned.

MSC: To deny the appeal. (Hurley/Gruber: 5-0)

H. 85-1/2 Richland Ave.

AT090214

The landlord filed a petition seeking a determination as to the proper base rent for the unit, which the ALJ found to be \$1,800.00 per month with the tenant being responsible for PG&E costs. On appeal, the tenant claims that he now has documentation proving that he had an oral agreement with the prior landlord that he could deduct the amount of the PG&E bill from the rent; and that the new owner falsely stated at the hearing that he was working on the problem of a shared utilities meter in the building.

MSC: To deny the appeal. (Gruber/Hurley: 5-0)

I. 2021 California #303

AL090215

The tenants' petition alleging decreased housing services was granted, in part, and the landlord was found liable to the tenants in the amount of \$4,952.50 for numerous habitability defects on the premises. On appeal, the landlord claims that: the Conclusions of Law regarding the kitchen window conflict with State law; the Conclusions concerning the kitchen window and the dryer vent are factually contradictory; and the rent reductions granted are excessive.

MSC: To deny the appeal. (Mosbrucker/Henderson: 5-0)

J. 81 Minerva St.

AL090216 & -17

The tenants' petition alleging decreased housing services and an unlawful rent increase was granted, in part, and the landlord was found liable to the tenants in the amount of \$1,517.25 for reduced housing services and \$1,200.00 for a rent increase based on an additional occupant in the unit. On appeal, the landlord argues that: the \$150.00 monthly rent reduction for lack of heat is unfair because the utility bills for the building often did not exceed that amount and the tenants should not be reimbursed more than their share of the utility bills; he was not obligated to provide a clothes dryer on the premises and the tenants preferred to disconnect the washer and dryer to save on utility costs; the tenants were moved into another room immediately after the toilet in their room broke; the tenants constituted a nuisance and disturbed other tenants; and the decision presents him with a financial hardship.

MSC: To deny both the landlord's substantive and hardship appeals.
(Mosbrucker/Henderson: 5-0)

VI. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

- A. Articles from the S.F. Examiner, the S.F. Chronicle and BeyondChron.
- B. A copy of Senate Bill 290.
- C. A copy of the case of Guggenheim v. City of Goleta.

VII. Director's Report

Executive Director Wolf informed the Board that the Governor signed Senate Bill No. 290 into law, which makes the 60-day notice requirement for evictions permanent. Senior Administrative Law Judge Tim Lee told the Board about the case of Guggenheim v. City of Goleta, a Ninth Circuit case which departed from established takings jurisprudence to find that the vacancy control provision of a rent control ordinance for mobile home parks caused a taking for which just compensation must be paid, despite the fact that the ordinance did not interfere with the property owner's reasonable investment-backed expectations for the property.

VIII. Calendar Items

October 27th, November 3rd and 10th, 2009 – NO MEETINGS

November 17, 2009

13 appeal considerations

IX. Adjournment

President Gruber adjourned the meeting at 6:35 p.m.

NOTE: If any materials related to an item on this agenda have been distributed to the Commission after distribution of the agenda packet, those materials are available for public inspection at the office of the Rent Board during normal office hours.

City and County of San Francisco

Residential Rent Stabilization
and Arbitration Board



NOTICE OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,

GAVIN NEWSOM
MAYOR

DAVID GRUBER
PRESIDENT

Tuesday, 6:00 p.m.,
November 17, 2009

DELENE WOLF
EXECUTIVE DIRECTOR

25 Van Ness Avenue, #70, Lower Level

BROOKS BEARD
DAVE CROW
DEBORAH HENDERSON
JIM HURLEY
ANTHONY JUSTMAN I.
POLLY MARSHALL
CALHY MOSBRUCKER
NEVED MOSSE II.
BARTHOLOMEW MURPHY

AGENDA

GOVERNMENT
DOCUMENTS DEPT

NOV 13 2009

SAN FRANCISCO
PUBLIC LIBRARY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals

A. 2715 Franklin #2

AT090232

One tenant appeals the decision certifying capital improvement costs on the grounds of financial hardship.

B. 525 Greenwich St.

AT090224

The tenant appeals the dismissal of his petition seeking a determination of the proper base rent due to his failure to appear at the hearing.

C. 1900 Vallejo #203

AT090229 & -0234

One tenant appeals the decisions certifying capital improvement costs on the grounds of financial hardship.

D. 1115 Taylor #4

AL090228

The Master Tenant appeals the remand decision establishing a repayment schedule for the refund of overpayments pursuant to Rules Section 6.15C(3).



E. 1108 Lake St.

AL090223

The landlord appeals the decision granting a claim of decreased housing services.

F. 44 Crestline Dr. #3

AT090227

The tenant appeals her election of the 100% capital improvement passthrough alternative on the grounds of financial hardship.

G. 1337 Page #4

AT090221

The tenant appeals the decision denying his claims of decreased housing services.

H. 16 Salmon #2

AT090222

The tenant appeals the decision denying his claims of unlawful rent increases and decreased housing services.

I. 1755 Van Ness #302

AL090225

The landlord appeals the decision finding that no rent increase is warranted pursuant to Rules Sections 1.21 and 6.14 and Costa-Hawkins.

J. 6841 Geary Blvd. #6

AL090226

The landlords appeal the decision granting claims of decreased housing services.

K. 68 Albion St.

AL090230

The landlords appeal the decision granting claims of decreased housing services.

L. 1435 – 7th Ave. #2

AL090231

The landlords appeal the decision granting claims of decreased housing services.

M. 554 Broadway #33

AT090233

The tenant appeals the decision denying claims of decreased housing services and harassment.

VI. Communications

VII. Director's Report

VIII. Old Business

IV. Remarks from the Public (cont.)

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

IX. New Business

X. Calendar Items

XI. Adjournment

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ACCESSIBLE MEETING POLICY

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會議提供翻譯服務、聲音增強器或其他信息安排，但必須在會議舉行七十二小時之前提出申請。申請電話號碼是 252-4603。

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**MINUTES OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,**

GAVIN NEWSOM
MAYOR

DELENE WOLF
EXECUTIVE DIRECTOR

DAVID GRUBER
PRESIDENT

Tuesday, November 17, 2009 at 6:00 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

BROOKS BEARD
DAVE CROW
DEBORAH HENDERSON
JIM HURLEY
POLLY MARSHALL
CATHY MOSBRUCKER
NEVEO MOSSER
BARTHOLOMEW MURPHY
AMELIA YAROS

GOVERNMENT
DOCUMENTS DEPT

DEC -4 2009

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PUBLIC LIBRARY

Call to Order

President Gruber called the meeting to order at 6:05 p.m.

Roll Call

Commissioners Present: Beard; Crow; Gruber; Henderson; Hurley;
Mosbrucker; Mosser; Yaros.
Commissioners not Present: Marshall.
Staff Present: Lee; Wolf.

Commissioner Murphy appeared on the record at 6:14 p.m.

Approval of the Minutes

MSC: To approve the Minutes of October 20, 2009.
(Henderson/Hurley: 5-0)

Remarks from the Public

A. Cal Broomhead, Energy and Climate Programs Manager for the Department of the Environment, told the Board that the Department is exploring the use of stimulus money to encourage the replacement of old refrigerators with energy efficient appliances, which could have a big impact on utility bills. Once the program is established, Mr. Broomhead will return to discuss the capital improvement passthrough provisions of the Ordinance and Rules with the Commissioners.

B. Viliam Dugovic, the tenant at 554 Broadway (AT090233), said that the Administrative Law Judge (ALJ) didn't consider his evidence, that the manager failed to appear and testified by phone and that the "whole case is messed up."

C. Nora Corrasco, representative for tenant Carlo Torrone of 525 Greenwich (AT090224), told the Board that the tenant has good and bad days, and couldn't get out of bed on the day of the hearing.

D. Rod Hinkle, Attorney for the landlord in the case at 6841 Geary Blvd. (AL090226), said that the Decision rested on the assumption that the landlord had notice of the conditions because of a letter that was found in the landlord's file during the hearing. However, Mr. Hinkle explained that the letter was in the file due to pending court actions and there was no corroborating evidence that it had been seen earlier. Mr. Hinkle told the Board that the outcome of this appeal could affect a pending court case.

E. The tenant at 6841 Geary, Genrietta Lerner, said that the ALJ made the right decision because the owner was lying about the problems in the unit and never came to fix the gate.

F. Andrew Hawkins, representing the landlord in the case at 1108 Lake Street (AL090223), told the Board that the landlord is absentee and her agent has no command of the English language. Mr. Hawkins said that the \$100 reduction for laundry for 14 months was unreasonable and that only one side in the case was heard. Mr. Hawkins asked for a new hearing so that he could cross-examine the tenant.

G. Tenant Symeo Streeter of 1337 Page (AT090221) said that key evidence from a prior Extension of Time case was not considered by the ALJ. Mr. Streeter contended that the landlord had admitted that he had access to storage and parking in the building, but later denied it because there was no written documentation.

V. Consideration of Appeals

A. 2715 Franklin #2

AT090232

The landlord's petition seeking certification of capital improvement costs to 3 of 4 units in the building was granted, resulting in a monthly passthrough in the amount of \$63.23. One tenant appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship.
(Henderson/Mosbrucker: 5-0)

B. 525 Greenwich St.

AT090224

The tenant's petition seeking a determination of the lawful base rent was dismissed due to his failure to appear at the properly noticed hearing. On appeal, the tenant claims to have been ill on the day of the hearing.

MSC: To accept the appeal and remand the case for a new hearing; should the tenant again fail to appear, absent extraordinary circumstances, no further hearings will be granted. (Henderson/Mosbrucker: 5-0)

C. 1900 Vallejo #203

AT090229 & -0234

The landlord's petitions seeking certification of capital costs were granted, resulting in monthly passthroughs in the amount of \$33.13 and \$14.31. One tenant appeals the decisions on the grounds of financial hardship.

MSC: To accept the appeals the remand the cases for a hearing on the tenant's claims of financial hardship. (Gruber/Mosbrucker: 5-0)

D. 1115 Taylor #4

AL090228

The subtenant's petition alleging that he paid a disproportionate share of the rent was granted and the Master Tenant was found liable to the subtenant in the amount of \$10,800.00. The Master Tenant's hardship appeal was granted and remanded for hearing. In the remand decision, the ALJ finds sufficient hardship to order a repayment plan in the amount of \$150.00 per month. The Master Tenant again appeals, claiming that even the reduced amount will cause him severe hardship and possibly result in both tenants' eviction from the premises.

MSC: To deny the appeal. (Mosbrucker/Gruber: 5-0)

E. 1108 Lake St.

AL090223

The landlord's appeal of a decision granting a claim of decreased housing services was filed three days late because the landlord was allegedly out of the country at the time the decision was mailed and the property manager has limited English skills.

MSC: To find no good cause for the untimely filing of the appeal. The Decision is therefore final. (Henderson/Mosbrucker: 5-0)

F. 44 Crestline Dr. #3

AT090227

The landlord's petition for certification of capital improvement costs was granted. The tenant in one unit elected to have 100% of the certified costs passed through

to her, with a cap of 15% of her base rent, rather than 50% of the costs. As this election has proved to be disadvantageous to her and she is experiencing financial hardship, the tenant asks that the Board allow her to rescind the election of the 100% alternative.

MSC: To accept the appeal and remand the case to the Administrative Law Judge with instructions to waive the Regulations pursuant to Rules Section 2.18 and allow the tenant to rescind the Addendum electing the 100% passthrough option.
(Gruber/Mosbrucker: 5-0)

G. 1337 Page #4

AT090221

The tenant's petition alleging decreased housing services due to loss of parking and storage spaces in the building was denied as the ALJ found that the tenant failed to meet his burden of proving that the services were part of the base rent at the inception of the tenancy. On appeal, the tenant maintains that: the landlord gave contradictory testimony during two recent Rent Board hearings and committed perjury; the landlord admitted that the tenant had rights to garage parking and storage, but later denied it; and relevant testimony was omitted from the decision.

MSC: To recuse Commissioner Mosbrucker from consideration of this appeal. (Henderson/Crow: 5-0)

MSC: To deny the appeal. (Murphy/Gruber: 3-2; Crow, Henderson dissenting)

H. 16 Salmon #2

AT090222

The tenant's petition alleging unlawful rent increases and decreased housing services was denied because the ALJ found that laundry and storage services were added after the commencement of the tenancy for no additional charge. The tenant appeals the decision, arguing that: storage and laundry privileges were promised to him by the prior landlord and were factored in to his base rent, as evidenced by the Estoppel Certificate he filed with the petition; the prior landlord increased his rent upon his installation of a washer/dryer; the landlord provided inaccurate information, which was relied on by the ALJ; there had never been an extra charge for use of the storage shelves outside of the unit; and a Small Claims Court decision finding that he is entitled to laundry and storage in the building at no cost should be binding on the Rent Board.

MSC: To accept the appeal and remand the case to the Administrative Law Judge to evaluate and determine the status of the Small

Claims Court ruling and its effect on the tenant's decreased services claim; to deny the appeal as to the alleged unlawful rent increase. A supplemental hearing will be held if necessary. (Beard/Mosbrucker: 5-0)

I. 1755 Van Ness #302

AL090225

The landlord filed a petition seeking a determination pursuant to Rules Sections 1.21 and 6.14 and Costa-Hawkins. The ALJ found that the subject unit is not the tenant's principal place of residence but her subtenant is a Tenant in Occupancy and, because the tenant still permanently resides part-time in the subject unit, no rent increase is warranted. On appeal, the landlord maintains that: the tenant no longer permanently resides in the unit; the ALJ exhibited bias in denying the landlord's petition for rent increase; and the subtenant does not meet the definition of a Tenant in Occupancy.

MSC: To deny the appeal. (Mosbrucker/Henderson: 5-0)

J. 6841 Geary Blvd. #6

AL090226

The tenant's petition alleging decreased housing services was granted, in part, and the landlords were found liable to the tenant in the amount of \$1,280.00 due to habitability defects on the premises. On appeal, the landlords claim that: the landlords were not on notice of the defective security gate system until April 24, 2009; and the rent reduction for the defective entry system is disproportionately high, as is the rent reduction for the worn carpet.

MSC: To deny the appeal; no determination is made as to the merits of any other claims. (Mosbrucker/Henderson: 5-0)

K. 68 Albion St.

AL090230

The tenant's petition alleging decreased housing services was granted and the landlord was found liable to the tenant in the amount of \$4,485.00 due to lack of heat and \$495.99 for broken window cranks and closers. On appeal, the landlord claims that: the landlord was not on notice of the problems until the tenant contacted the Department of Building Inspection after being given a 3-day notice for non-payment of rent; the problems were immediately remedied; and the window cranks were removed by the tenant.

MSC: To deny the appeal. (Henderson/Mosbrucker: 5-0)

L. 1435 – 7th Ave. #2

AL090231

The tenant's petition alleging decreased housing services was granted, in part, and the landlords were found liable to the tenant in the amount of \$6,157.50 due to habitability defects on the premises. The landlords appeal, claiming that: the tenant was granted a rent reduction for loss of use of the deck, which she did not use; the bathroom window is not defective and the landlords were not on notice of this issue until November 2008; a rent reduction was granted for a period of time after the bathroom had been painted and the landlords were not on notice of the recurrence of the problem; the amount of the rent reduction granted for the linoleum is in error; several of the problems were merely cosmetic; and the rent reductions granted are excessive.

MSC: To deny the appeal except to remand the case to the
Administrative Law Judge for a necessary Technical Correction.
(Mosbrucker/Henderson: 5-0)

M. 554 Broadway #33

AT090233

The tenant's petition alleging decreased housing services and harassment by the landlord was denied. On appeal, the tenant claims that: the rent is not a lawful amount; the evidence he provided was not considered in the decision; and he proved that the landlord failed to perform necessary repair and maintenance as required by state and local law.

MSC: To deny the appeal. (Murphy/Mosbrucker: 5-0)

VI. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

A. A copy of the Rules and Regulations amended September 8, 2009.

B. A letter from Aaron Goodman, President of the Parkmerced Residents' Organization (PRO), regarding recent statements made by the landlord's representatives at a Rent Board hearing.

C. Articles from the S.F. Bay Guardian, S.F. Appeal, S.F. Gate, and the S.F. Chronicle.

IV. Remarks from the Public (cont.)

H. Tenant Symeo Streeter of 1337 Page said that the second page of the Estoppel Agreement verified that he had parking and storage, but it wasn't submitted. Mr. Streeter told the Board he was unable to lodge an objection over

the removal of these services because he wasn't medically able to do so at the time. Mr. Streeter maintained that everyone agrees he had the space, but his petition was denied anyway.

VII. Calendar Items

November 24th, December 1st & December 8th – NO MEETINGS

December 15, 2009

11 appeal considerations

VIII. Adjournment

President Gruber adjourned the meeting at 7:15 p.m.

NOTE: If any materials related to an item on this agenda have been distributed to the Commission after distribution of the agenda packet, those materials are available for public inspection at the office of the Rent Board during normal office hours.



**NOTICE OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,**

GAVIN NEWSOM
MAYOR

DELENE WOLF
EXECUTIVE DIRECTOR

DAVID GRUBER
PRESIDENT

Tuesday, 6:00 p.m.,
December 15, 2009
25 Van Ness Avenue, #70, Lower Level

BROOKS BEARD
DAVE CROW
DEBORAH HENDERSON
JIM HURLEY
POLLY MARSHALL
CATHY MOSBRUCKER
NEVEO MOSSER
BARTHOLOMEW MURPHY
AMELIA YAROS

AGENDA

GOVERNMENT
DOCUMENTS DEPT

DEC -4 2009

SAN FRANCISCO
PUBLIC LIBRARY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

V. Consideration of Appeals

A. 1135 & 1137 Taylor AT090235 & -36

The tenants in two units appeal the decision granting rent increases based on increased operating expenses due to financial hardship.

B. 85 Richland #1 AT090241 & -42

The tenant appeals two decisions certifying capital improvement costs on the grounds of financial hardship.

C. 183 Topeka Ave. AT090245

The tenant appeals the dismissal of his petition alleging decreased housing services due to his failure to appear at the hearing.

D. 339 – 20th Ave. AL090246

The landlord appeals the remand decision granting a claim of landlord hardship.

E. 80 Terra Vista Ave. #13 AT090248

One tenant appeals the decision certifying capital improvement costs based on financial hardship.

F. 240 Cumberland #101 & 302 AT090239 & -40

The tenants in two units appeal the decision certifying capital improvement costs.

G. 1210 – 22nd Ave. #A AL090237

The landlord appeals the decision granting a claim of unlawful rent increases.

H. 805 – 27th Ave. AL090238

The landlord appeals the decision granting a claim of decreased housing services.

I. 462 Vallejo AT090243

The tenant appeals the decision certifying capital improvement costs.

J. 392 – 28th St. AT090244

The tenants appeal the decision certifying capital improvement costs.

K. 2045 – 19th St. AL090247

The landlords appeal the decision granting a claim of decreased housing services.

VI. Communications

VII. Director's Report

VIII. Old Business

IV. Remarks from the Public (cont.)

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

IX. New Business

X. Calendar Items

XI. Adjournment

NOTE: If any materials related to an item on this agenda have been distributed to the Commission after distribution of the agenda packet, those materials are available for public inspection at the office of the Rent Board during normal office hours.



ACCESSIBLE MEETING POLICY

American sign language interpreters will be available upon request. Please contact the Rent Board at 252-4603 at least 72 hours prior to the meeting. Translation services, sound enhancement or alternative formats are available if requested at least 72 hours prior to the meeting. Call 252-4603 to place your specific request. Late requests will be honored if possible.

會議提供翻譯服務，聲量增強器或其他信息安排，但必須在會議舉行七十二小時之前提出申請。申請電話號碼是 252-4603。

Se pueden obtener servicios de traduccion, ampliacion de sonida, u otras formas de presentacion si se solicitan por lo menos 72 horas antes de la reunion. Llame al 252-4603 para hacer su solicitud.

In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City to accommodate these individuals.

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There is accessible parking available on adjacent streets (Oak Street and Hickory). Metered street parking is also available.

Policy of Nondiscrimination on the Basis of Disability and Equal Employment Opportunity Statement

The Rent Board does not discriminate on the basis of disability in employment or in the admission and access to its programs or activities.

Timothy Lee has been designated to coordinate this agency's compliance with the nondiscrimination requirements of Title II of the Americans with Disabilities Act (ADA). Information concerning the provisions of the ADA, and the rights provided under the Act, are available from the ADA Coordinator. The Rent Board TTY number is 554-9845.

Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

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GAVIN NEWSOM
MAYOR

DELENE WOLF
EXECUTIVE DIRECTOR

MINUTES OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,

DAVID GRUBER
PRESIDENT

Tuesday, December 15, 2009 at 6:00 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

01-15-10A11:15 RCVD

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JIM HURLEY
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CATHY MOSBRUCKER
NEVEO MOSSER
BARTHOLOMEW MURPHY
AMELIA YAROS

I. Call to Order

President Gruber called the meeting to order at 6:05 p.m.

II. Roll Call

Commissioners Present:

Beard; Crow; Gruber; Henderson; Hurley;
Mosbrucker; Mosser.

Commissioners not Present:

Marshall; Murphy; Yaros.

Staff Present:

Lee; Wolf.

III. Approval of the Minutes

MSC: To approve the Minutes of November 17, 2009.
(Henderson/Mosbrucker: 5-0)

IV. Remarks from the Public

A. Landlord Anatole Geiche of 805 – 27th Ave. (AL090238) told the Board that the Administrative Law Judge (ALJ) made incorrect statements in her Memorandum responding to his appeal, including that the landlord failed to submit evidence/proof of his contentions. Mr. Geiche said that he sent seven letters to the tenant, which the Court of Appeal would have considered evidence, but the ALJ disregarded.

B. Landlord Wendy Shibori of 2045 – 19th St. (AL090247) asked how the Board makes decisions without viewing the subject properties. Ms. Shibori maintained that the tenant was just looking to reduce her rent: she didn't like having a window in the door, because it made her feel insecure. Ms. Shibori explained that glass conducts cold, so the condition is impossible to fix. She admitted that the lack of a heating source in the unit was a problem but asked that the Board reconsider the over \$8,000 granted to the tenant.

V. Consideration of Appeals

A. 1135 & 1137 Taylor

AT090235 & -36

The landlord's petition for rent increases to 5 of 10 units based on increased operating expenses was granted. The tenants in two units appeal the decision on the grounds of financial hardship.

MSC: To accept the appeals and remand the cases for hearings on the tenants' claims of financial hardship. (Henderson/Hurley: 5-0)

B. 85 Richland #1

AT090241 & -42

The landlord filed two petitions seeking certification of capital improvement costs, which were granted. One tenant appeals the decisions on the grounds of financial hardship.

MSC: To accept the appeals and remand the cases for a hearing on the tenant's claims of financial hardship.
(Mosbrucker/Hurley: 5-0)

C. 183 Topeka Ave.

AT090245

The tenant's petition alleging decreased housing services was dismissed due to his failure to appear at the properly noticed hearing. On appeal, the tenant claims not to have received the Notice of Hearing, and attaches the requisite Declaration of Non-Receipt of Notice of Hearing.

MSC: To accept the appeal and remand the case for a new hearing.
(Henderson/Hurley: 5-0)

D. 339 – 20th Ave.

AL090246

The tenant's petition alleging decreased housing services was granted and the landlord was found liable to the tenant in the amount of \$3,286.10. The landlord's appeal of the decision on the grounds of financial hardship was accepted and on remand the ALJ established a repayment plan in which the amount would be broken into 12 monthly installments. On further appeal, the landlord requests that the monthly amount be reduced or the offset extended over a longer period of time.

MSC: To deny the appeal. (Mosbrucker/Henderson: 5-0)

E. 80 Terra Vista Ave. #13

AT090248

The landlord's petition for certification of capital improvement costs to 6 of 15 units was granted. One tenant appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship.

F. 240 Cumberland #101 & 302

AT090239 & -40

The landlord's petition for certification of capital improvement costs to 18 of 30 units was granted, resulting in a monthly passthrough in the amount of \$53.66. The tenant in unit #101 appeals the decision on the grounds that he does not have a deck with a door and should not be charged for that portion of the work. The tenant in unit # 302 alleges that: the ALJ erroneously placed the burden of proof on the tenants; the landlord's proof of costs is not conclusive or tied to the work; the tenants proved that the costs were unreasonable based on the poor quality of the work; the landscaping work does not constitute a capital improvement; and the tenants do not derive any benefit from the work that related to water leaks into the garage.

MSC: To deny the appeal of the tenant in unit #101
(Hurley/Gruber: 4-1; Henderson dissenting)

MSC: To deny the appeal of the tenant in unit #302. (Hurley/Gruber: 3-2; Henderson, Mosbrucker dissenting)

G. 1210 – 22nd Ave. #A

AL090237

The tenants' petition alleging unlawful rent increases was granted and the landlord was found liable to the tenants in the amount of \$3,792.08. On appeal, the landlord asserts that: the tenants have underpaid rent due to several years when no rent increases were given; the tenants owe the landlord several years of rental unit fees; and the tenants signed a new lease at a higher rent to compensate the landlord for capital improvements he made to the unit.

MSC: To deny the appeal. (Mosbrucker/Henderson: 5-0)

H. 805 – 27th Ave.

AL090238

The tenant's petition alleging decreased housing services was granted, in part, and the landlord was found liable to the tenant in the amount of \$12,523.75 due to defective conditions on the premises. The landlord appeals the decision, claiming that: the tenants' actions prevented the installation of laundry appliances; the ALJ exhibited bias against the landlord and engaged in judicial

misconduct; the tenant's evidence was fabricated; the tenant failed to meet his burden of proof; and the tenant's claims are barred by the doctrine of laches.

MSC: To deny the appeal. (Henderson/Mosbrucker: 3-2; Gruber, Hurley dissenting)

I. 462 Vallejo

AT090243

The landlord's petition for certification of the costs of exterior painting and rebuilding a back porch floor to the tenants in two units was granted, in part. The tenants in one unit appeal the decision, claiming that: the back porch floor work consisted of repair, rather than capital improvement, as the condition of the property was restored rather than improved.

MSC: To deny the appeal. (Hurley/Gruber: 3-2; Henderson, Mosbrucker dissenting)

J. 392 – 28th St.

AT090244

The landlord's petition for certification of capital improvement costs to one of two units was granted, in part. The tenants appeal the passthrough of the dry rot repair work since the windows are still leaking and damaging the newly refinished hardwood floors.

MSC: To accept the appeal and remand the case to the Administrative Law Judge to grant conditional certification of the work and allow imposition of the capital improvement passthrough only after any defects have been corrected. (Hurley/Gruber: 4-1; Mosbrucker dissenting)

K. 2045 – 19th St.

AL090247

The tenant's petition alleging decreased housing services due to habitability defects in the unit was granted and the landlords were found liable to the tenant in the amount of \$8,275.00. On appeal, the landlords maintain that: the tenant was informed of the condition of the unit prior to her moving in; the tenant has had long-term guests; the tenant removed curtains that provided insulation; the tenant's lifestyle contributes to the condensation and mold problems and the tenant could have caused the sparking problems; the electrical system has now been upgraded; and the widows and door are part of the building and are in working order.

MSC: To deny the appeal. (Mosbrucker/Henderson: 5-0)

VI. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

A. The office workload statistics for the month of October, 2009.

B. Articles from San Francisco Magazine, the San Francisco Examiner, the San Francisco Chronicle, and the New York Times.

VII. Director's Report

Executive Director Wolf told the Board that legislation sponsored by Supervisor Avalos that would extend eviction coverage to post-1979 rental units was passed by the Board of Supervisors on a 7-4 vote, but is likely to be vetoed by the Mayor. Legislation sponsored by Supervisor Mar that would make families with minor children a "protected class" for purposes of owner move-in eviction was referred to the full Board by the Land Use Committee without recommendation. Ms. Wolf also reminded the Commissioners that they are required to complete on-line Harassment Training by December 31, 2009.

IV. Remarks from the Public (cont.)

C. Anatole Geiche told the Board that the papers he submitted explained the problem with the heating system in the building: that some of the hallways were over-heated with tenants using fans, while others were cold. Mr. Geiche said that the generator was found to be overly powerful. He is a Mechanical Engineer and maintained that what the tenant claimed could not have happened, which explains why he failed to complain for 3-1/2 years.

D. Wendy Shibori told the Board that she accepts the rent reduction for lack of heat, but disagrees with the other reductions. She expressed her belief that the problem with the door is merely cosmetic and that she is being penalized for providing a functional, secure door. Ms. Shibori said that the only way to prevent drafts through French doors is to caulk and weather-strip them shut. Ms. Shibori maintained that the tenant is "just looking for money" and "wants the unit re-done to her specifications."

E. Tenant Mark De Vita of 392 – 28th St. (AT090244) said that the new windows were installed in 2006, there were no problems prior to that time, and that's when the problems started. Mr. De Vita does not believe the new windows provided any benefit to the building since water came in for years. Mr. De Vita maintained that, if the landlord had made necessary repairs all along, there would not have been dry rot.

X. Calendar Items

December 22nd & 29th, 2009 & January 5th & 12th, 2010 – NO MEETINGS

January 19, 2010

15 appeal considerations

XI. Adjournment

President Gruber adjourned the meeting at 7:30 p.m.

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